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Vol. III

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1930

No. 83

PARAMOUNT FAMOUS LASKEY CORPORATION, METRO-GOLDWYN-MAYER DISTRIBUTING CORPORATION, FIRST NATIONAL PICTURES, INC., ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK

FILED APRIL 16, 1930

(34,951)

(34,951)

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VOL. III

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[fol. 2329] X-29

Film Boards of Trade, 469 Fifth Avenue, New York

November 17, 1926.

D. T. Lane, Esq., Secretary Inter-Mountain Film Board of Trade, Salt Lake City, Utah.

DEAR MR. LANE: This is in reply to your letter of November 12th, 1926.

I know of no reason why the names of the arbitrators should not be signed to the copies of the award furnished to the parties to a controversy. Therefore, please continue your present practice in such respect.

I am writing to the Secretary of the Butte Board of Arbitration today likewise.

Upon the facts stated in your example, I am of the opinion that the new owner of the theatre, after it comes under his control, by accepting delivery, paying the rental and exhibiting two or three pictures specified in a contract entered into by the previous owner will be held to have assumed and obligated to carry out and complete such contract without in any wise affecting the question of his credit rating either prior to or after investigation thereof, by the Credit Committee.

In respect to such contracts which are thus assumed, the new owner cannot be required, because of an adverse report of the Credit Committee upon his financial standing to give security for the performance of such contracts.

Sincerely yours, (Sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2330] O-37

Film Boards of Trade, 469 Fifth Avenue, New York

July 9, 1928.

Mr. D. T. Lane, Secretary Inter-Mountain Film Board of Trade, Salt Lake City, Utah.

DEAR MR. LANE: This is to acknowledge the receipt of your letter of July 3, 1928, which is not however a reply to

the question put in my letter No. H-8, dated June 27, 1928.

Please again read my circular letter. Perhaps the following example of a concrete case will help you in your answer.

A member of your Board (Distributor X) obtains an award against (Exhibitor Y). Does "X" at the same time that the other members of your Board having existing contracts with Exhibitor "Y" demand security from "Y" for the performance of the contract upon which the award is made as well as for the performance of other existing contracts with the Exhibitor "Y"?

Sincerely yours, (Sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

31:18.

[fol. 2331] 0-35

Intermountain Film Board of Trade

July 3, 1928.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 Fifth Avenue, New York.

Dear Mr. Hess: Replying to your communication of June 27, #H-8, in re demand for security:

If I read this letter correctly, you desire us to report just how we proceed when an exhibitor has failed to comply with an award. To start with, nothing is done by this office unless the distributor involved complains—we work upon the same theory that the Clerk of the Court does, namely: that the judgment can lie in the file forever unless the winning party calls it up. If the distributor complains of the failure of the exhibitor to comply with the award, this office immediately notifies all distributing companies of the failure of said exhibitor to comply with the award.

Each company immediately reports to this office if they have no contracts with the exhibitor involved. All exchanges having contracts prepare a letter demanding security, upon which they place 20c postage and marking envelope "Registered, return receipt requested". They forward these letters unsealed to this office where all are sent out on the same day. This office has always followed the practice of checking up the responses to the various ex-

changes and notify them of the date upon which their second letter should be sent out in case of the exhibitor's non-compliance with the demand for their deposit.

Trusting that this gives you the information you wish, I remain

Sincerely, —— ——, Secretary.

DTL/LP.

[fol. 2332] 0-36

July 6, 1928.

Mr. Gabriel L. Hess, General Counsel, Film Boards of Trade, 469 Fifth Avenue, New York.

Dear Mr. Hess: I would like to have your re-action to the following award made yesterday by our Board of Arbitration. The facts are these:

Paramount brought a case against an exhibitor arising under a contract for a number of pictures, which contract had been all played out. The exhibitor in question had promptly and properly paid for all of the pictures included in this contract except the very last subject. It had apparently been the custom of Paramount to ship open account—and the exhibitor failed to pay for the last picture. The only reference to payments in the contract was the usual provision that payment should be made three days prior to the exhibition date.

Our Board of Arbitration concluded that Paramount, by its own acts and practices, was stopped from using the Board of Arbitration. In other words, they decided that the matter was now simply an open account "collection" upon which Paramount could bring legal action without first resorting to arbitration. From the conversation of the arbitrators I gathered that they objected seriously to acting as a collection agency.

They seemed unanimous yesterday and I did not attempt to argue with them. However, I would be glad to have your version of such a situation.

Sincerely, —— —— Secretary.

DTL:LP.

[fol. 2333] 0-38

July 14, 1928.

Mr. Gabriel L. Hess, General Counsel, Film Boards of Trade, 469 Fifth Avenue, New York.

Dear Mr. Hess: Referring to your favor of July 9 concerning the questions put in your circular letter #H-8.

I am sorry that we misconstrued the idea that you had in mind. When I first read your letter I concluded that the data you now ask for was what was wanted. However, after I read your first letter again I concluded that the other information was what you wanted.

Answering you question in the same terms you used in your communication of July 9: If Distributor X has an award which is not complied with by Exhibitor Y, Distributor X, in this territory, has not followed the practice of demanding security from Y for the performance of the contract upon which the award was made. Neither has Distributor X made a practice heretofore of demanding security for any other contracts which he may have had with Exhibitor Y. We have apparently overlooked a bet as far as the additional contracts are concerned—but I imagine that no one has been greatly harmed for the reason that my observation tells me that usually when an exhibitor and a distributor in this territory clash before the Board of Arbitration, their entire contractual relationship is involved.

I will keep in mind in the future that security demands must be made by Distributor X for the performance of other existing contracts with Exhibitor Y. I would be glad if you would advise whether or not Distributor X should also make a demand for security upon the particular contract upon which the award was rendered?

Sincerely, —— —— Secretary.

DTL:LP.

Note: I find no reply to above. J. West.

[fol. 2334] 0-39

Film Boards of Trade, 469 Fifth Avenue, New York.

July 19, 1928.

Mr. D. T. Lane, Secretary, Inter-Mountain Film Board of Trade, Salt Lake City, Utah.

Dear Mr. Lane: This is in reply to your letter of July 6, 1928.

If breaches of contract could be classified into degrees the failure of the distributor to deliver to the exhibitor a picture contracted for and the failure of the exhibitor to pay for a picture delivered to and exhibited by him on open account or not, would in my opinion be the highest degree of breach. Accordingly, it is beyond my understanding to appreciate the refusal of a Board of Arbitration to make an award in favor of a distributor against an exhibitor who has failed to pay for that which he has received and benefited by. It seems to me that the position taken by the Board of Arbitration would be analagous to a court refusing plaintiff a judgment in an action upon a check (payment of which check had been refused) given in payment of a debt, on the ground that as the debt was payable in cash the acceptance of the check therefore discharged the debt.

The Arbitration Clause of the Standard Exhibition Contract requires the parties before seeking to enforce or protect their legal rights to submit all claims or controversies arising thereunder to the Board of Arbitration. If the distributor in the instant case had not made a claim before the Board of Arbitration the distributor would have been guilty of a breach of contract and the courts upon application of the exhibitor under the arbitration statutes would stay the proceeding and order the distributor to arbitrate. Thus the Board of Arbitration by its refusal to make an award is denying to the distributor its right to recover what it is justly entitled to.

If the members of your Board of Arbitration persist in their position, I recommend to all members of your Film Board of Trade that under no circumstances or conditions should the provision of their contracts requiring payment for pictures to be made three days in advance of delivery be waived and that all exhibitors in the Salt Lake City territory be required to strictly comply with such provision. This, of course, will have the effect of breaking down any inclination on the part of distributors to grant credit to [fol. 2335] exhibitors to whom credit might ordinarily be granted and absolutely kill the growth of the credit in this business.

Sincerely yours, (sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

19;18.

[fol. 2336] Seattle Film Board

[fol. 2237] Ex 7

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

November 26, 1927.

Mrs. R. B. Lynch, Secretary Northwest Film Board of Trade, Seattle, Washington.

DEAR MRS. LYNCH: Mr. James Grainger, General Sales Manager of the Fox Film Corporation, has reported to us a case of bicycling at Shelton, and we have recommended that he instruct his Seattle Branch Manager to file a claim before the Joint Board of Arbitration for infringement of the copyright law.

Kindly keep us advised in this matter.

Sincerely yours, (Signed) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fols. 2338 & 2339] Western Union

Newcomb Carlton, President. J. C. Willever, First Vice-President

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

Received at

EAA236 29 NM-Seattle Wash 10

1928 Apr 10 PM 6 39

Gabriel L. Hess, General Attorney, 469 Fifth Ave., New York, N. Y.:

Award secured last year against exhibitor with closed house he now buys theatre in another locality stop can additional security be required when transfer is OK and questionnaire returned.

R. B. Lynch.

Copy.

The quickest, surest and safest way to send money is by telegraph or cable.

[fols. 2340 & 2341] Western Union

Newcomb Carlton, President. J. C. Willever, First Vice-President

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

NA173 79 DL FE New York N Y 11 1255P

1928 Apr 11 AM 11 58

Mrs. R. B. Lynch, Northwest Film Board of Trade, 814 Securities Bldg., Seattle, Wash.

Security under arbitration rules may only be demanded for performance of existing contracts therefore security cannot be demanded on new contracts for theatre purchased after date of original award however distributors may proceed to file claims against exhibitor for breach or contracts for exhibition of pictures at closed theatre and upon failure to comply with awards on such account security may then be demanded for performance of all contracts for pictures at purchased theatre existing at date of award.

Gabriel L. Hess.

Letter & clear situation contracts outlawed.

The quickest, surest and safest way to send money is by telegraph or cable.

[fol. 2342] Ex. 183

44

April 17, 1928.

Mr. Gabriel L. Hess, General Attorney, Film Board of Trade, 469 Fifth Avenue, New York City, N. Y.

Dear Mr. Hess: I thank you for your wire of April 11th giving the information requested in regard to additional security on a former award of the Board of Arbitration when an exhibitor buys a new house.

My members feel that in the case of an exhibitor whose reputation is uniformly bad and who has been out of busi-

ness for some months, that there should be some legitimate means of requiring additional security when he opens a new house.

In the specific case about which I wired, the contracts upon which the Board of Arbitration's award was secured, were all written in 1925 and 1926. Under our rules, it would now be impossible to file a claim for the non-fulfillment of these contracts.

What we would like to know is whether or not we have any means of protecting ourselves against a repetition of unsatisfactory dealings with an exhibitor who has proven himself untrustworthy.

Very truly yours, Northwest Film Board of Trade.
—— ——, Secretary.

[fol. 2343] Copy

April 23, 1928.

Mrs. R. B. Lynch, Secretary, Northwest Film Board of Trade, 810 Securities Building, Seattle, Washington.

Dear Mrs. Lynch: This is in reply to your letter of April 17, 1928 with further reference to my wire to you of April 11th in regard to additional security on a former award of the Board of Arbitration when an exhibitor purchases a new theatre.

I note in the specific case about which you wired me on April 10th, the contracts upon which the Board of Arbitration based its award were all written in 1925 and 1926.

There is nothing in the Rules of Arbitration to cover the situation outlined by you and I recommend therefore that those of your members having claims against this exhibitor start action in court to recover against him.

Sincerely yours, Gabriel L. Hess, General Attorney.

31:18.

[fol. 2344] Ex. 106

48

Oct. 23, 1928.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 Fifth Ave., New York City.

Dear Mr. Hess: Mr. W. D. Gross of Juneau, Alaska, whose dispute with Fox Film Corporation I have already writ-

ten you about, has not deposited security with any exchange, but has sent a check to F. B. Olds which pays in full for all pictures that he has under contract with them.

While I understand that pictures paid for in full at the time of the award must be serviced without security, I want to ask if an exhibitor may pay in advance for pictures after the date of the award without the deposit of security for service.

I am sure that a settlement is on the way in this Gross matter—in fact, I understand that the check to settle the claim of the Fox Film Corporation is now in the hands of his agent in Seattle, but I would like to have your opinion in this situation for future reference.

Very truly yours, —— ——, Secretary Northwest Film Board of Trade.

RBL/LM.

[fol. 2345] Ex. 107

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

October 31, 1928.

Mrs. R. B. Lynch, Secretary Seattle Film Board of Trade, Seattle, Wash.

DEAR MRS. LYNCH: This is in reply to your letter of October 23, 1928 concerning Mr. W. D. Gross of Juneau, Alaska.

It seems to me that an offer made by an exhibitor after the date of an award against him which he has failed to comply with, to pay to a distributor in advance for all pictures thereafter deliverable need not be accepted by the distributor in lieu of the distributor's demand for security for the performance of contracts with such exhibitor existing at the date of the award. The distributor, in addition to the payment of the rental of the pictures contracted for three days in advance of shipment, is entitled under the provisions of the Standard Exhibition Contract as and when the conditions therein specified occur to be assured

by the deposit of security by the exhibitor that the remaining provisions of his contract other than those relating to the payment of rental will be carried out and performed.

Accordingly, notwithstanding that payment in advance is offered by an exhibitor after the date of an award against him with which he has not complied, the distributor is obligated under the Arbitration Rules to require that the amount of security fixed by such Rules for the performance of contracts existing at the date of the award be deposited.

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

19:31.

[fol. 2346] St. Louis Film Board

[fol. 2347] January 11, 1926.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: The Joint Arbitration Board has run into the following argument, and would like to have an opinion from you on it.

A contract with a clause printed on the back providing for the setting of Arbitrary play dates if dates are not specified in the contract. Written on the face of the contract—"To Be Played or Paid for by July, 1925". Correspondence filed with the claim shows that the Distributor has written several letters calling the attention of the Exhibitor to the fact that the pictures are to be played by July, 1925, and asking for definite dates. No arbitrary dates, however, were set by the Distributor.

Some of the members of the Arbitration Board believe the claims should be sent back to the Distributor with instructions to set arbitrary dates as provided in clause on back of contract. Other members believe that it is not necessary for the Distributor to set arbitrary dates and that in as much as the written clause calls for payment not later than July, 1925, the Arbitration Board should find for the Distributor and the Exhibitor required to pay for the pictures and use at his convenience.

One of the members believes that the clause "To be paid for by July, 1925" has no meaning and that all claims

should be rejected because the contracts have no dates or definite playing arrangement.

The Board would appreciate your help.

Yours very truly, St. Louis Film Board of Trade.
—— ——, Secretary.

Ex. 10, P. W.

[fol. 2348] Ex. 10-2, P. W.

Film Board of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

January 14, 1926.

Miss L. B. Schofield, Secretary, St. Louis Film Board of Trade, 3312 Olive Street, St. Louis, Missouri.

Dear Miss Schofield: This is in reply to your letter of January 11, 1926.

I assume the clause referred to by you printed on the back of the contract is the same as the clause of the Uniform Contract providing for the selection or designation of play dates.

By the provisions of that clause the distributor is obligated to give the exhibitor notice of the date upon which each photoplay contracted for (the exhibition dates of which are not specified in the contract) will be available for exhibition and at the same time to notify the exhibitor that he may select exhibition dates within the fortnight commencing with such date of availability.

In the case stated by you I am of the opinion that the distributor by his several letters to the exhibitor calling attention to the fact that the pictures were to be played before July 25, 1925 in accordance with the written provisions on the face of the contract and by asking for definite play dates substantially complied with such obligation.

The clause further provides that in the event of the failure of the exhibitor to so select exhibition dates the distributor may at any time after the expiration of the period of two weeks after the date of the initial notice of availability designate exhibition dates.

This provision is in effect an option which the distributor may or may not exercise and in the case stated by you the distributor evidently relied upon the written clause upon the face of the contract to the effect that the pictures would be played or paid for before July, 1925 and concluded not to exercise the option to designate play dates.

Accordingly I am of the opinion that it is not necessary as a condition precedent to the presentation to the Board [fol. 2349] of Arbitration of the distributor's claim against the exhibitor that the distributor should designate play dates in accordance with the clause on the back of the contract but that the distributor may present the claim and if proof satisfactory to the Board of Arbitration is made, request an award directing the exhibitor to pay for the pictures with the right to exhibit them within a reasonable period of time after payment has been made.

Very truly yours, Gabriel Hess, Gabriel L. Hess, General Attorney.

25.
Ex. 10-3, P. W.

[fol. 2350] Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel Hess, General Attorney

January 14, 1926.

Miss L. B. Schofield, Sec. St. Louis Film Board of Trade, 3312 Olive Street, St. Louis, Missouri.

Dear Miss Schofield: This is to acknowledge receipt of your letter of January 14, 1926 concerning the controversy between United Artists Corporation and S. E. Pirtle, Orpheum Theatre, Jerseyville, Illinois.

I am of the opinion that upon the facts stated by you the Board of Arbitration was warranted in making its award. However not on the theory that the mailing by the distributor of the approved copy of the contracts terminated the period of acceptance for both parties whether the approved copy is mailed two, three or twenty days after

the contract is signed, but on the theory that Mr. Pirtle should have either accepted or rejected all of the contracts on the ground that they were not accepted in the time specified.

If several writings are part of the same transaction or bargain they will be construed together as one contract.

If in the case of an exhibitor signing several applications for different pictures the circumstances under which such applications were made disclosed the fact that they were executed at the same time and upon the same day by the same parties at the same place and these applications were upon identical forms specifying the same "run" and "protection" (if any) and that the pictures were all distributed by the same company for exhibition at the same theatre the several applications are part of one transaction and if and when accepted by the distributor constitute but one contract.

At any time before the expiration of the period specified in the application within which the distributor may accept the application of the exhibitor and prior to the mailing or telegraphing by the distributor of a written acceptance the exhibitor may withdraw his application by a notice in writing to the distributor to such effect. Such withdrawal becomes effective if received by the distributor prior in point of time to the mailing or telegraphing of the distributor's written acceptance if any has been given.

Ex. 10-4, P. W.

[fol. 2351] February 10, 1926.

Re Several Applications as One Contract. Withdrawing Application by Exhibitor

Members St. Louis Film Board of Trade.

Gentlemen: The following is taken from Mr. Gabriel L. Hess's letter of January 19th—

"If several writings are part of the same transaction or bargain they will be construed together as one contract.

"If in the case of an exhibitor signing several applications for different pictures the circumstances under which

such applications were made disclosed the fact that they were executed at the same time and upon the same day by the same parties at the same place and that these applications were upon identical forms specifying the same "run" and "protection" (if any) and that the pictures were all distributed by the same company for exhibition at the same theatre, the several applications are part of one transaction and if and when accepted by the distributor constitute but one contract."

"At any time before the expiration of the period specified in the application within which the distributor may accept the application of the exhibitor and prior to the mailing or telegraphing by the distributor of a written acceptance the exhibitor may withdraw his application by a notice in writing to the distributor to such effect. Such withdrawal becomes effective if received by the distributor prior in point of time to the mailing or telegraphing of the distributor's written acceptance if any has been given.

"If within the period specified in the application the distributor fails to give to the exhibitor notice in writing of the acceptance of the exhibitor's application, such application is deemed withdrawn. In this connection it should be borne in mind that the exhibitor is under no legal duty or obligation to notify the distributor that because an acceptance of his application was not mailed or telegraphed within the time provided the exhibitor deems the application withdrawn. In this respect the provisions of the application are clear and work out an automatic withdrawal if a written notice of acceptance is not given.

"Either party to the application may waive the provisions thereof with respect to acceptance. For example the exhibitor may waive the fact that formal written acceptance of the distributor and also that notice of acceptance was given after the time specified by accepting delivery of one or more of the pictures specified in the application. Likewise the distributor by the delivery of one or more [fol. 2352] of such pictures may be deemed to have accepted the exhibitor's application without giving the formal written notice of acceptance."

(Signed) Gabriel L. Hess, General Attorney.

[fol. 2353] February 27, 1926.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: Some time ago there were lively discussions at Film Board meetings as to whether or not Joint Arbitration Board should consider claims calling for the collection of money due an Exchange, for any reason at all, and a number of members stated that various Boards where they had visited or had been members would not permit their members to file claims calling for collections, and falling into line the St. Louis Board finally convinced itself that the Arbitration Board was not a collection agency. Some of the members leading in the discussions against collections became members of the Joint Arbitration Board and had no difficulty at all in getting the exhibitor members to believe that the Board should act on no claims calling for collection of money due an Exchange.

Many claims were sent back to the Exchanges with the notation that the Arbitration Board would not consider them since the Board was no collection agency, and no doubt this matter was taken up with New York, and now the discussion is coming to life again. New members are on the Arbitration Board who are thoroughly convinced that collection is part of the work of the Board. They are trying to un-sell the exhibitor members the idea that was so recently sold them, and are having quite a difficult time. The exhibitor members are not obstinate, but they feel entitled to some good arguments, and the Exchange members are turning to you for advice.

Is it a part of the Joint Arbitration Board's work to consider a claim for collection of rental on film when shipment was made open, although the exhibitor's check had not been received?

Should the Board consider claims for the collection of small balances resulting from short remittances, express charges, etc., or for checks returned by the bank?

Confidentially, a letter from you outlining in quite specific terms the duties of the Board would not be amiss—not only on this collection matter, but also on the contract itself. A rather heated discussion at the last meeting or

two has come up over a statement that the Arbitration Board has unlimited power, and covered the matter or ver-
[fol. 2354] bal agreements and prices. So far it has been merely discussion and talk. We know of no instance where the Board made a decision reducing prices, although they have in letters to the Exchanges suggested a thorough investigation of conditions and if justified a reduction in prices. This has always been in the form of a suggestion. They also have considered verbal agreements, but only when such agreements were admitted by both parties.

But you can see the trend, and we trust you can enlighten the Board on these various matters.

Yours very truly, St. Louis Film Board of Trade.
—— ——, Secretary.

Ex. 10-6, P. W.

[fol. 2355] Ex. 10-7, P. W.

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

March 3, 1926.

Miss L. B. Schofield, Secretary St. Louis Film Board of Trade, St. Louis, Missouri.

DEAR MISS SCHOFIELD: It is as much the duty of the Board of Arbitration to consider a claim for the non-payment of the rental of a picture which has been shipped without requiring payment therefor in advance as it is to consider any other breach of the contract. This applies likewise to small balances resulting from short remittances, express charges or for checks returned by the bank.

Under the Uniform Contract and under the new Standard Exhibition Contract the exhibitor has no more important obligation than to pay the film rental of the pictures contracted for thereunder. In fact I would say payment of the film rental is the first requisite to carry out his contractural obligations.

If a distributor occasionally waives the right granted under both forms of contract to require payment of film

rental three days in advance of the shipment of the print of a picture because of some good reason there is no reason why the Board of Arbitration should refuse to consider a claim made by such distributor that the exhibitor has refused to pay the film rental of such picture nor any balance that may remain due on account of such rental or charges for the delivery of prints thereof.

While it is true that some distributors may in order to curry favor with an exhibitor waive their right to demand payment in advance of the delivery of prints of pictures relying on the Board of Arbitration by an award to enforce the collection of rentals, distributors making a practice of waiving such right for such reason should be informed that such practice is considered to be unethical.

I have been advised that at the last meeting of your Board of Arbitration a statement was made that the Board had unlimited authority to make awards irrespective of the terms of the contract involved in the controversy and particularly to disregard the rental price of pictures fixed in [fol. 2356] such contracts and also that it could take cognizance of verbal agreements in contradiction or modification of the specific terms of such written contract.

In this connection it should be remembered that Boards of Arbitration are constituted by the provisions of the Uniform Contract pursuant to Rules and Regulations therein mentioned, among which is the following:

"The Board of Arbitration shall have no power to adopt or apply any rule which shall be at variance with any of the provisions of the contract between the parties or the rights and obligations of the parties thereunder."

The recognition of a claim that a verbal understanding was either made at the time of the execution of a contract or subsequent thereto which materially changes or is different from its written and printed provisions is in absolute disregard of the Rule above quoted, in violation of the rights of the parties concerned and any award made thereon is absolutely void.

Very truly yours, Gabriel L. Hess, Gabriel L. Hess,
General Attorney.

Ex. 10-8, P. W.

[fol. 2357] Ex. 10-11, P. W.

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

March 17, 1926.

To the Secretary of each film board of trade:

At a meeting of the General Sales Managers of all national distributors called for March 11, 1926 it was decided that the policy of allocating or prorating contracts should be abandoned because of the many abuses and unfair practices which resulted from such policy.

Accordingly the members of your Film Board of Trade will shortly be advised by their respective Sales Managers that they will not be permitted to consent to the allocation of play dates, the reduction of the number of the pictures contracted for or the reduction of rental prices in respect to any existing contract with any exhibitor excepting in cases of most unusual circumstances which in their judgment they deem demands that some relief be granted an exhibitor and in all such cases that all of the facts be submitted to their home offices for final decision.

Please transmit this information to the members of your Film Board of Trade, particularly the regional distributors.

Very truly yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Ex. 10-11, P. W.

[fol. 2358] Ex. 10-13, P. W.

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

April 17, 1926.

Miss L. B. Schofield, Secretary St. Louis Film Board of Trade, 3312 Olive Street, St. Louis, Missouri.

DEAR MISS SCHOFIELD: We have been advised that your Joint Board of Arbitration refused to entertain two claims

of the United Artists Corporation against the Criterion and Pageant theatres, your city, because of the age of contracts.

Our attention has also been called to the allocation of pictures for one, McCutcheon, Charleston, Mo., over the objection of the United Artists' manager.

Kindly submit a detailed report on these matters as early as possible.

With kindest regards, I am,

Very truly yours, L. H. Flinn, L. H. Flinn.

[fol. 2359] April 23, 1926.

Mr. L. H. Flinn, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

DEAR MR. FLINN: Answering your letter of the 17th—some months ago the Joint Arbitration Board, by unanimous vote, passed a rule to consider no claims on contracts taken more than two and one-half years prior to the filing of the claim.

Not only does the Board feel that they can not get at the facts surrounding the contract after so long a time, but they feel that a manager is negligent who does not file a claim with the Board before such a period elapses. There have been instances prior to this ruling where claims have been filed on contracts that had lain dormant for years, and no correspondence or records of any kind attached to guide the Board. When a decision had been given the Exchange it was learned that the pictures called for on the contract were out of service or in such condition they could not be run. The Board feels that all claims should be filed at least within one year after the violation of the contract, allowing one year and a half for the performance of the contract. These are some of the reasons given by the members of the Board for the above ruling.

With reference to the allocation of play dates for Charleston, Mo.—These exhibitors appealed to the Board for relief on contracts. Both Mr. and Mrs. McCutcheon had bought service for two towns and when they checked up they found they had bought some 400 pictures for each town, and out of these 400 United Artists Corp. had contracts for 3 pictures.

All exchanges holding contracts were consulted and volunteered to reduce the number of pictures under contract 40%.

The United Artists Corp. manager stated he would have to refer the matter to New York, but as the reduction would involve but one picture, the secretary was instructed to proceed with the allocation, and a full year's schedule was [fol. 2360] made up with Mr. and Mrs. McCutcheon and has been lived up to by them. In fact, the Exchanges report these exhibitors' account in more satisfactory shape than at any previous time.

However, the Board also realizes that the practice of reducing contracts and allocating dates can be abused and have discontinued the reduction of the number of pictures on a contract altogether, and will consider the allocation of dates only in the most extreme cases, and then only after the members have secured the consent of the Home Offices, so there will be no recurrence of situations like Charleston.

We delayed answering your letter a day or two in order to talk with the members of the Arbitration Board on the ruling covering the age of contracts on which claims may be filed, with the idea in mind that they might wish to reconsider it, but found them still in favor of the ruling as it stands.

If we have not given you the information you wish on these matters, kindly let us know.

Yours very truly, St. Louis Film Board of Trade.
—— ——, Secretary.

Ex. 10-14, P. W.

[fol. 2361] Ex. 10-15, P. W.

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

April 26, 1926.

Miss L. B. Schofield, Secretary St. Louis Film Board of Trade, St. Louis, Missouri.

DEAR MISS SCHOFIELD: This is to acknowledge the receipt of your letter of April 23, 1926 to Mr. Flinn.

The Rule of the St. Louis Board of Arbitration requiring that all submissions to arbitration be filed within one year after a violation or a breach of contract giving rise to a

controversy must be rescinded because such Board is without right or authority to make and cannot enforce the Rule.

I fully appreciate the reason set forth in your letter which prompted the Rule and I suggest that if your Film Board of Trade as such should adopt a Rule to such effect your members would be bound by it and for its violation incur such penalties as may be provided.

This may be going around the corner to reach a point that is accessible by going directly to it, but the integrity of the Arbitration plan provided for in the Standard Exhibition Contract and the Rules and Regulations relating to Arbitration must be held inviolate and in strict accordance with the provisions thereof.

If it is the sense of your Board that such a Rule be adopted please submit to me a draft of the Rule that may be proposed and I will be very glad to examine it with a view of advising you if it meets the situation and is not in conflict with the general scheme of operation of your Film Board of Trade or of the Standard Exhibition Contract.

If you will examine the rules and regulations relative to Arbitration you will observe that the authority of the Board of Arbitration to adopt Rules is limited to rules of procedure and practice which shall provide for reasonable notice to the parties of the time and place of the hearing [fol. 2362] and the nature of the dispute, afford the parties an opportunity to be heard in person or by counsel and to submit evidence.

The Rule under discussion you will observe is far beyond the limits of such authority.

Please show this letter to each member of your Board of Arbitration so that at their next meeting the necessary action to rescind the Rule first above referred to may be taken and advise me of the fact.

Very truly yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Ex. 10-16, P. W.

[fol. 2363]

December 6, 1926.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: Can the St. Louis Film Board of Trade open a trust fund into which can be deposited all checks

received from exhibitors as additional security on awards of the Joint Arbitration Board and Credit Committee?

It is the idea of the Board to have all such checks made payable to the Board and credited to the Exchange from which the exhibitor wishes service. Heretofore Exchanges have demanded the additional security as a result of the failure of an exhibitor to comply with an Arbitration Board award, or because of security placed against the new owner by the Credit Committee, and the checks have been sent in to the Exchange by the exhibitor—payable to the Exchange and deposited by the Exchange. Lately one or two Exchanges have merely applied this additional security to the rental of the picture—hence the action discussed above.

Yours very truly, St. Louis Film Board of Trade.
—— ——, Secretary.

Ex. 10-17, P.W.

[fol. 2364] Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

December 9, 1926.

Miss L. B. Schofield, Secretary St. Louis Film Board of Trade, St. Louis, Mo.

DEAR MISS SCHOFIELD: This is in reply to your letter of December 6, 1926 concerning a trust fund to deposit checks received as security from exhibitors as a result of their failure to comply with an award of the Joint Board of Arbitration, and to secure the performance of new contracts proposed to be entered into by them.

Security in both instances is payable to the distributor demanding it, and must under no circumstances be paid to or held by the Film Board of Trade. In each case the security must be held by the distributor to whom it is given. Accordingly there is no necessity to open a trust fund account.

Yours truly, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Ex. 10-18, P.W.

[fol. 2365] St. Louis Film Board of Trade, 3312 Olive Street, St. Louis, Missouri

Bulletin

March 17, 1927.

Members St. Louis Film Board of Trade.

GENTLEMEN: In filing claims for "switching" (bicycling) or "sub-renting" of pictures, please use the following forms:

"Switching" (Bicycling)

"That by reason of the unauthorized exhibition of our copyrighted picture entitled —— by the exhibitor, Mr. —— at —— Theatre, —— Ill., on —— (date), we claim an infringement of the copyright thereof under the United States Copyright Law and hereby demand that the Board of Arbitration, in lieu of actual damages and profits, fix such damages as to the Board of Arbitration shall appear to be just, and in assessing such damages that the Board of Arbitration, in its discretion, allow an amount provided for by the Copyright Law of the United States, which law provides that in such case such damages shall not exceed the sum of $5,000, nor to be less than the sum of $250."

"Sub-Renting"

"That by reason of the unauthorized sub-licensing, or sub-renting, of our Copyrighted motion picture entitled ——, by John Doe, of Chicago, Ill., to Wm. Doe, of Evanston, Ill., on ——, date, we —— (Distributor) claim a breach of Clause Three of the Standard Exhibition Contract by John Doe and because of such breach and infringement of the United States Copyright Law, and hereby demand that the Board of Arbitration, in lieu of actual damages and profits, fix such damages as to the Board of Arbitration shall appear to be just, and in assessing such damages that the Board of Arbitration, in its discretion, allow such an amount provided for by the Copyright Law of the United States which law provides that in such case the damages shall not exceed the sum of $5,000 nor be less than $250."

These complaint forms have been prepared by the New York Office of Film Boards of Trade and are to be used

in all instances where claims are filed for "Bicycling" and "Sub-renting."

St. Louis Film Board of Trade. L. B. Schofield, Secretary.

Ex. 10-19, P.W.

[fol. 2366] Ex. 10-20, P.W.

Copy

April 18, 1927.

Miss Audrey Littell, Secy. Charlotte Film Board of Trade, Charlotte, N. C.

Unless an actual date is or dates are specified in the schedule of the contract, or otherwise agreed upon, a playing arrangement that a blank number of pictures per week or month beginning on a fixed date are to be played or paid for within a specified period of time does not relieve the distributor of the obligation to notify the exhibitor of the day or dates upon which one or more of the photoplays contracted for will be available to enable the exhibitor to select such exhibition date or dates within the week or month of the following week or months, (as the case may be) beginning with such fixed date, and the exhibitor failing to make a selection, the distributor is then given the right to designate such day or date.

Such a playing arrangement is but an amplification of Article Ninth providing for the selection or designation of playing dates. While it provides for the playing of or paying for the pictures at regularly weekly or monthly intervals within a definite period of time, it fails to specify the actual play date or dates, and for this reason resort must be had by the distributor to the provisions of said article for the designation of the day or dates in the weekly or monthly periods.

If the blank space for specifying the number of pictures in such playing arrangement is not filled in, then such arrangement is of no effect whatsoever.

Accordingly, until play dates are selected or designated as above indicated, and the exhibitor refuses or fails to exhibit the pictures on such date or dates, the distributor may not claim the rental for the unplayed pictures.

If the contract provides no playing arrangement other than that the pictures be played or paid for within a specified period it is incumbent upon the distributor during the period or prior thereto to notify the exhibitor of the date or dates upon which the pictures will be available. If after such notice, the designation of playing dates by the distributor and the expiration of the period there remain any pictures unplayed, the distributor may then claim the rental for such unplayed pictures.

It depends upon the facts and circumstances in each case to determine the question whether or not the distributor by not giving to the exhibitor notice of the availability of play dates has failed to perform the contract. For example, there are circumstances under which the distributor may not because of the requests or upon the solicitation of the exhibitor attempt to enforce a contract, in which case [fol. 2367] the distributor by granting such requests as a matter of favor to the exhibitor should not be held to have failed to perform the contract.

Refusal of an exhibitor to accept delivery of the one picture upon which the play date was designated does not give rise to a claim by the distributor with respect to the remaining unplayed pictures contracted for. Notice of availability of the play dates of the unplayed pictures must be given and a play date selected by the exhibitor, or failing which, designated by the distributor before there is a basis for a claim for the rental of the unplayed pictures.

The tender by the exhibitor of play dates may be refused by the distributor unless such tender is made under the provisions of Article Ninth in response to a notice of availability by the distributor.

Gabriel L. Hess, General Attorney.

Ex. 10-21, P.W.

[fol. 2368] Film Boards of Trade, 469 Fifth Avenue, New York

May 4, 1927.

Subject: ——.

To all Secretaries of Boards of Arbitration:

Enclosed is a copy of the Copyright Law of the United States of America which you may keep for your records.

Attention is particularly directed to Section 25 thereof, beginning on page 30, which contains the provisions fixing the liability of any person who shall infringe the copyright in any work protected under the Copyright Laws. Motion Pictures are so protected. It is therefore provided that any such person is liable (a) to an injunction restraining such infringement, (b) to pay to the copyright owner such damages as the copyright owner may have suffered due to the infringement, as well as all profits which the infringer shall have made from such infringement, or in lieu of actual damages and profits such damages as to the court shall appear to be just, and in assessing such damages, the court may, in its discretion, allow an amount not to exceed the sum of $5000, nor less than the sum of $250, and such damages shall not be regarded as a penalty.

Please call to the attention of the arbitrators the foregoing section of the Copyright Law, and the further fact that because the Standard Exhibition Contract compels distributors to first submit their claims for infringement of copyright (bicycling or switching) to the Board of Arbitration, they are prevented from seeking in the United States Court to recover the damages provided for by the Copyright Law. That therefore the Boards of Arbitration in justice to the distributors, and to aid in stamping out the evil of "bicycling" should, if they conclude that an award should be made, fix the damages at not less nor greater than the amounts specified in the Copyright Law.

Yours very truly, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Enclosure.
Ex. 10-22, P. W.

[fol. 2369] Ex. 10-23, P. W.

Copy

May 16, 1927.

Mr. James B. Fitzgerald, Secy. Washington Film Board of Trade, Washington, D. C.

In my opinion the following answer should be made to the hypothetical question stated in your letter of March 3, 1927:

A contract for forty pictures from which it appears that the parties have agreed upon but one play date expires, by limitation of time one year from the date of the exhibition of the first picture delivered thereunder (See Article 2 Standard Exhibition Contract).

Within said period it is incumbent upon the exhibitor to accept (See Article 2nd S. E. C.) and upon the distributor to deliver (See Article 8th S. E. C.) each of the photoplays.

The exhibition of the photoplays contracted for by the exhibitor must be made on the exhibition date or dates specified in the schedule of the contract or determined as provided in Article 9th of the Standard Exhibition Contract. Delivery of the prints of such pictures by the distributor must be made in time for exhibition by the exhibitor on the dates specified in the schedule, or determined as aforesaid.

The exhibition dates, if not definitely specified in the schedule, or otherwise agreed upon, must be determined as provided in Article 9th. In such case it is the duty of the distributor to mail to the exhibitor at least fifteen days' notice of the date upon which each photoplay will be available for exhibition. Thereafter the exhibitor is obligated to select dates as provided in the article. Failing to do so within fourteen days after notice of availability the distributor may at any time thereafter designate the dates.

Accordingly, the distributor should within a reasonable time after each picture is available for exhibition by the exhibitor give the exhibitor notice of avalability to the end that delivery of all the pictures contracted for may be made within the year period. If by the acts of the exhibitor in failing to select dates as provided in the contract, or otherwise agreed upon them with the distributor, the distributor is prevented from making deliveries within the year period, the distributor cannot be held to have breached the contract because of a failure to make deliveries within such period.

When the distributor is in a position to designate dates because of the failure of the exhibitor to select them, such dates may be designated at any reasonable time after such failure to select dates by the exhibitor. Thus under such conditions the distributor may designate dates and make deliveries within a reasonable time after the year period has expired. It cannot be reasoned that the exhibitor by

his own failure to act can put the distributor in the position where the distributor cannot enforce the distributor's rights to have the pictures contracted for paid for and exhibited.

[fol. 2370] A contract is not as stated in the question "outlawed within one year from the starting date." The rule adopted last year simply provided that claims before the Board of Arbitration must be presented within one year after the date of the breach of contract or of the act of omission or commission out of which a dispute or controversy shall have arisen. The date of the contract or of its commencement in no wise is controlling. While the contract provides for the exhibition by the exhibitor and the delivery by the distributor of the pictures contracted for within a period of one year from the date of the first picture deliverable, the parties to the contract may, by agreement in writing, or by their acts in the perfromance of the contract, waive that provision, and by so doing obligate themselves to exhibit or deliver, as the case may be, all of the pictures contracted for, even though the exhibition or delivery takes place as to any of the pictures after the expiration of the one year period.

If this were not so, it would put a premium upon delays by exhibitors (even though acquiesced in by the distributor) with the result that exhibitors seeking to avoid their contractual obligations could easily do so by procrastination and playing upon the good-will of the distributor.

In case play dates are not specified or otherwise agreed upon the distributor within a reasonable time after a picture is available should give notice of its availability to the exhibitor. Thus the distributor indicates that the distributor is ready, willing and able to make deliveries. The exhibitor by his failure to select dates as provided in Article Ninth cannot put the distributor in default.

The failure of the exhibitor to so select dates as provided in said article will not be held to be a breach of contract because the distributor is given the right to designate the dates and this the distributor may do at any time after the 14 days provided for in Article Ninth within which the exhibitor is given the right to select dates. However, the dates designated by the distributor should fall within the year period, excepting in cases because of the acts of the

exhibitor such dates cannot be designated within the year period, when dates after the year period may be designated.

Of course the refusal by the exhibitor to pay for, accept delivery of and play a photoplay the exhibition dates of which have been designated by the distributor is a breach of contract, and claim thereunder must be made by the distributor before the Board of Arbitration within one year from the date of such refusal.

Gabriel L. Hess, General Attorney.

Ex. 10-24, P. W.

[fol. 2371] Film Boards of Trade, 469 Fifth Avenue, New York

June 9, 1927.

Subject: ——.

To the secretaries of all film boards of trade:

Enclosed you will find drafts of two form letters, #1 —a demand for Security—and #2—a Notice of Suspension of Service, to be used by your members in the future when making demands for security because of the failure or refusal of an exhibitor to comply with an award made by your Board of Arbitration and when notifying such exhibitor of the suspension of service because of the refusal or failure to comply with such demand.

Please ask your members to discontinue the use of any other forms heretofore used by them, and to adopt these instead.

If it has been the practice of your Board to require members to deliver demands for security and notices discontinuing service to the Secretary of the Board to insure the sending of such letters, please explain to your members that we believe such practice should be immediately discontinued because it undoubtedly was founded on a lack of confidence which the members had in each other. We feel that now such lack of confidence is no longer warranted, and that therefore the practice of having the members send out their own letters should be inaugurated.

Members will be depended upon to promptly comply with the advices of the Secretary of the Board given them under the Rules to demand security for the enforcement of the

decisions of the Board of Arbitration, and upon the failure of the exhibitor to comply with such demand within the seven day period fixed under the rules, to immediately send the second notice suspending service, and to actually suspend service.

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

(2 Enclosures.)
Ex. 10-25, P. W.

[fol. 2372] (Letter #2)

Notice of Suspension of Service

June 9, 1927.

Please take notice that because of your failure to pay us the sum of $— heretofore demanded from you as security for the performance by you of the existing contract (if there be more than one contract use the word "contracts") between us we have suspended service under said contract (if more than one use the word "contracts").

Yours very truly, —— ——.

Ex. 10-26, P. W.

[fol. 2373] (Letter #1)

Demand for Security

June 9, 1927.

Because of your failure or refusal to abide by and comply with the decision or award of the —— (insert name) Board of Arbitration in the controversy between you and —— —— (insert name of distributor in whose favor award is made) submitted for arbitration as provided in the Standard Exhibition Contract, the undersigned in accordance with the terms of the existing contract (if there be more than one contract use the word "contracts") between us hereby demands that you pay to the undersigned at the above address the sum of — Dollars ($—) for our protection and as security for the performance by you of such existing contract (if more than one use words "each such existing contract.").

Upon your failure to pay us said sum within seven days from the date of th-s letter under the Rules and Regulations Relating to Arbitration (by reference incorporated in and made a part of the Standard Exhiibtion Contract) we will proceed to suspend service under such contract (if more than one use the words "each such contract") until you have furnished such security or complied with such decision of said Arbitration Board.

Yours very truly, —— ——.

Ex. 10-27, P. W.

[fol. 2374] Copy

July 20, 1927.

Mr. Louis Phillips, Secy. New York Film Board of Trade, New York.

Dear Mr. Phillips: This is in reply to your letter of July 18, 1927.

I concur in your opinion that upon the failure of an exhibitor to comply with an award in favor of another exhibitor because of such exhibitor's failure to delay in forwarding a print of a picture (as directed by the distributor) to the other exhibitor, members of the Film Boards of Trade are obligated under the Rules and Regulations Relating to Arbitration to proceed to enforce such award as therein provided by demanding security for the performance of each of their respective existing contracts with the exhibitor against whom the award was made.

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Ex. 10-31, P.W.

[fol. 2375] St. Louis Film Board of Trade, 3312 Olive Street, St. Louis, Missouri

July 29, 1927.

Members St. Louis Film Board of Trade.

Gentlemen: We are giving you below copy of letter received from Mr. Gabriel L. Hess, General Attorney. After you have read this letter, we believe it should also be referred to your salesmen for their information.

"This is in reply to your letter of July 18, 1927.

"A contract for the exhibition of pictures at a theatre specified therein may not be avoided because of the failure of the exhibitor to secure a lease of such theatre, or to open such theatre because of the reason stated in your letter of July 18, 1927. (These were lack of finances, sickness, etc.)

"An exhibitor when entering into a contract to exhibit pictures at a theatre which he has not then possession of, depending upon his ability to secure a lease thereof, or to acquire it at some future time, must assume all the risks that he may be unable to secure such lease, or to acquire such theatre, and the liability resulting therefrom because of the making of such contract.

"A distributor by contracting with such an exhibitor is in all probability prevented from renting his pictures to others and may not be held to bear the loss which may be caused by conditions over which he has no control, brought about by the acts of the exhibitor."

(Signed) Gabriel L. Hess, General Attorney St. Louis Film Board of Trade. L. B. Schofield, Secretary.

Ex. 10-32, P.W.

[fol. 2376] Film Boards of Trade, 469 Fifth Avenue, New York

August 3, 1927.

Subject: ——.

To all secretaries of all film boards of trade:

Pathe Exchanges, Inc. advises us that it has been appointed agent of Producers Distributing Corporation to deliver the unplayed pictures contracted for by exhibitors with Producers Distributing Corp. and to collect and receive all moneys due on account thereof.

As all such contracts were taken in the name of Producers Distributing Corp., and none of which have been assigned to Pathe, all controversies hereafter arising thereunder when submitted by an exhibitor should be as a claim against Producers Distributing Corp., and when submitted by the distributor against an exhibitor, as a claim by Pathe Exchanges, Inc., as Agents of Producers Distributing Corp.

It is to be expected that claims under such contracts will from time to time come before your Board of Arbitration. Therefore in respect to such claims it will be Pathe's duty as agent of Producers Distributing Corp. to present or defend them as the case may be on behalf of Producers Distributing Corp.

Pathe Exchanges, Inc., as such, has no liability whatsoever under any such contract, excepting under its arrangement with Producers Distributing Corp. to make the deliveries of the unplayed pictures as in such contracts provided.

Please furnish a copy of this letter to the members of your Board of Arbitration, and to your local Exhibitors' Association.

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Ex. 10-33, P.W.

[fol. 2377] Film Boards of Trade, 469 Fifth Avenue, New York

Subject: ——.

March 28, 1928.

All presidents of all film boards of trade:

Please present at the next meeting of your Film Board of Trade, and move for its adoption, the following resolution:

"Resolved that the Rules and Regulations relating to Arbitration bearing date May 1, 1928 specified in the new Standard Exhibition Contract be and the same hereby are adopted as the Rules and Regulations Relating to Arbitration of this Film Board of Trade; and it is further

Resolved that all by-laws, rules and regulations in any wise relating to any of the matters specified in said Rules and Regulations or in conflict therewith be and the same hereby are repealed, effective as of May 1, 1928."

Immediately after this resolution has been adopted please inform me the date of the meeting at which such action was taken.

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Ex. 10-34.

[fol. 2378] Film Boards of Trade, 469 Fifth Avenue, New York

No. H-8

Subject: Demand for Security.

June 27, 1928.

All secretaries of all film boards of trade (including Canada):

Having in mind paragraph 3 of Article Eighteenth (the Arbitration Clause) of the Standard Exhibition Contract, particularly that part which provides that if an exhibitor fails to comply with an award, the distributor may, "at its option demand" "security for the performance by the Exhibitor of this and all other existing contracts between the parties," please advise me what is the practice of members of your Board having obtained an award against an exhibitor demanding security for the performance of the contract upon which the award is made as well as for the performance of other existing contracts with the same exhibitor at the same time that the other members having existing contracts with such exhibitor demands security for the performance thereof.

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Ex. 10-36, P.R.

[fol. 2379] June 30, 1928.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Re: No. H-8

Dear Mr. Hess: Answering your letter of June 27th—it is the practice of members of this Board having obtained an award against an exhibitor to demand security for the performance of the contract upon which the award is made as well as for the performance of other existing contracts with the same exhibitor at the same time that all other mem-

bers having existing contracts with such exhibitor demand security for the performance thereof.

Yours very truly, St. Louis Film Board of Trade.
—— ——, Secretary.

Ex. 10-37, P.W.

[fol. 2380] St. Louis Film Board of Trade, 3312 Olive Street, St. Louis, Missouri

Bulletin

July 26, 1928.

Members St. Louis Film Board of Trade:

The Chicago Film Board of Trade wrote Mr. Gabriel L. Hess, General Attorney, for his opinion as to whether or not a Distributor would be within his rights in including in a C. O. D. shipment of advertising accessories an indebtedness due on a previous order shipped by express, to which Mr. Hess responded as follows:

"This is in reply to your letter of July 2, 1928, concerning C. O. D. shipments.

"As advertising material is neither leased nor sold under the terms of the Standard Exhibition Contract, the Distributor may add to a C. O. D. express shipment of advertising accessories an amount due for a previous shipment of such accessories, but the refusal of the Exhibitor to pay does not give rise to a claim that can be arbitrated under the terms of the Standard Exhibition Contract."

St. Louis Film Board of Trade. L. B. Schofield, Secretary.

Ex. 10-38, P.W.

[fol. 2381] Film Boards of Trade, 469 Fifth Avenue, New York

No. H-22

September 5, 1928.

Subject: ——.

All secretaries of all boards of arbitration (including Canada):

I have been informed that it is the practice of some Boards of Arbitration to make awards in favor of distribu-

tors in cases where exhibitors fail to appear before the Board of Arbitration upon the day fixed for hearing, without requiring the distributors to submit any testimony in support of the distributor's claim.

If this is the practice of your Board of Arbitration it should be immediately discontinued.

Upon the default in appearance before the Board of Arbitration of either of the parties to a controversy submitted for arbitration a note of such default should be stamped upon the papers in all cases, using the form to make such note given you at our Los Angeles meeting.

If after you have noted such default the complaining party who has appeared before the Board desires to have the Board make an award, and the Board is willing to make an award in default of the appearance of the other party, then such complaining party should be required to and must submit to the Board proof of the claim made. Upon failure on the part of the complaining party to make proof of such claim or the refusal of the Board of Arbitration to make an award because of the non-appearance of one of the parties no award should be made.

Sincerely yours, Gabriel L. Hess, General Attorney.

Ex. 10-41, P.W.

[fol. 2382] Ex. 10-43, P.W.

Film Boards of Trade, 469 Fifth Avenue, New York

No. H-28

October 9, 1928.

Subject: ——.

To all secretaries of all boards of arbitration (including Canada):

There have come to my attention because of their incorrect form several awards recently rendered by some Boards of Arbitration, and so that you may have the benefit of my criticisms as to the forms of these awards, I will set forth some of them in this letter:

For example, in one case an award directing an exhibitor to furnish play dates contains the following statement:

"Exhibitor is to signify his willingness to accept this award within seven days."

In another case an award against an exhibitor who had closed his theatre stated:

"Distributor's claim of $— be sustained against the exhibitor in the event he re-opens."

An award when rendered is final. Its finality cannot be made contingent upon the happening of any future event or future action of any kind.

In the first example given above, the quoted matter should have been eliminated from the award, and in the second, the phrase "in the event he re-opens" is improper and should never appear in an award.

In another case the award rendered was to this effect:— "That the claim of the distributor be disallowed for the reason that the exhibitor was forced out of business due to foreclosure proceedings." The closing of a theatre by foreclosure proceedings in no event warrants the disallowance of a claim made by a distributor, and this form of award is incorrect. You should use, in such case, the form of award which I furnished you some time ago to be used in the case of the closing of a theatre.

In still another form of award the Board of Arbitration reduced the rental prices specified in the contract, which is, of course, beyond the power of the Board of Arbitration to do.

[fol. 2383] There have been, also, numerous awards in which payment is directed to be made but no amount is specified. In future, please be sure to see that wherever payment of money is directed to be made, the amounts should be clearly set forth in the award.

An award should be specific, it should be so phrased as to be possible of performance at the time the award is made, and should be certain concerning the terms of such performance and the amounts awarded.

I recommend that at the next meeting of your Board of Arbitration you again read to the Arbitrators the booklet containing recommendations to Arbitrators appointed under the rules and regulations relating to Arbitration of the Motion Picture Industry, based upon the suggestions

of the American Arbitration Association for the guidance of Arbitrators.

I am enclosing herewith some forms of awards which I have heretofore furnished to several of the Boards and which I recommend be adopted by your Board for future use.

Sincerely yours, Gabriel Hess, General Attorney.

Encl.
Ex. 10-44, P.W.

[fol. 2384] Complaint Forms

September 20, 1927.

To all members of film board of trade:

In preparing your complaints to be filed with the Board of Arbitration it is recommended you use one of the nine following forms appropriate to the nature of your complaint and insert such form immediately following that part of the form of complaint attached hereto which reads "We herewith claim that —— ——, operating the —— Theatre, located at ——."

1. Breach of Contract for not Exhibiting Pictures (Shows Left on Shelf)

—— —— has breached a contract dated the — day of ——, 192-, in failing to exhibit and pay for the following pictures upon the dates specified.

Subject	Date	Amount
.....	....	.....
.....	....	.....
.....	....	.....

That by reason thereof, we are entitled to recover from the said exhibitor, the sum of $——.

2. Returned (N. G.) Check

—— —— on the — day of ——, 192-, in payment of the rental of the following picture (s) ——, delivered pursuant to said contract, issued and delivered a check for the sum

of $ —, which was returned by the bank unpaid of which the following is a copy. (Here insert copy of check.)

3. Pictures Unpaid for Delivered Open Account

—— —— accepted delivery of and exhibited the following pictures under contract dated —— without payment of the rental therefor being made in advance and has refused to pay such rental.

Subject	Date	Amount
.....	....	.....
.....	....	.....
.....	....	.....

The exhibitor is therefore indebted to us in the sum of $—.

Ex. 10-45D.

[fol. 2385] 4. Late Return of Print

—— —— failed to return the print of the picture entitled —— immediately following the last exhibition thereof which print was delivered to the said exhibitor pursuant to contract dated —— for exhibition on the following dates ——. We therefore claim damages in the sum of $—.

5. Damaged Print

—— —— on the — day of ——, 192-, received a positive print of the picture entitled —— for exhibition at the above named theatre in good condition. That such print was damaged by the exhibitor to the extent of — feet and we are therefore entitled to recover from the exhibitor at the rate of —¢ per foot, the sum of $—.

6. Lost Print

—— —— on the — day of ——, 192-, received a positive print of the picture entitled —— for exhibition at the above named theatre. That such print, — feet in length, was not returned by said exhibitor and we are therefore entitled to recover from said exhibitor at the rate of —¢ per foot the sum of $—.

7. Violation of Copyright Law (Switching)

——— ———, by reason of the unauthorized exhibition of our copyrighted picture entitled ——— by the said exhibitor at the ——— Theatre on ——— ——, 192-, infringed the copyright thereof in violation of the United States Copyright Law and we hereby demand that the Board of Arbitration, in lieu of our actual damages and profits, fix such damages as to the Board of Arbitration shall appear to be just; and in assessing such damages that the Board of Arbitration, in its discretion, allow an amount provided for by the Copyright Law of the United States, which law provides that in such case damages shall not exceed the sum of $5,000 not to be less than the sum of $250.

8. Declaratory Award (Validity of Contract)

——— ——— on the — day of ———, 192-, entered into contract and refuses to perform said contract disputing the validity thereof.

We therefore respectfully demand that an award be made declaring said contract to be a valid and existing contract and the exhibitor directed to carry out and perform it in accordance with its terms.

Ex. 10-45E.

[fol. 2386] 9. Declaratory Award (Interpretation)

——— ——— on the — day of ———, 192-, entered into a contract with the undersigned. That a controversy has arisen with respect to the interpretation of the following clause of said contract: (Insert clause) therefore we respectfully demand that the Board of Arbitration interpret said clause and make its findings thereon.

Very truly yours, Gabriel L. Hess, General Attorney.

Ex. 10-45-F, P.W.

[fol. 2387] Ex. 10-9, P.W.

Copy

March 10, 1927.

Mr. Charles R. Zears, Secy. Oklahoma City Film Board of Trade, Oklahoma City, Okla.:

I am advised that in a controversy betewen Warner Brothers and the Liberty Theatre, Ardmore, Okla., involv-

ing a contract which provided for the exhibition of two pictures to be played on or before March 1, 1927, and the remaining pictures therein specified to be played or paid for by September 1st, 1927, the Board of Arbitration made an award to the effect that the exhibitor had the right to submit play dates, but that if all of the pictures were not played or paid for by September 1st, 1927, claim could then be made against the exhibitor, and the Board would upon such claim make an award in favor of the distributor. Further, that the Board of Arbitration took the position that Warner Bros. did not have the right under the contract to fix play dates until after the expiration of the date agreed upon between the exhibitor and the distributor, on which the exhibitor had the right to complete the exhibition of the pictures contracted for because the contract provided such a playing arrangement.

In the absence of play dates specified in the schedule or otherwise agreed upon and assuming that the contract is for a number of pictures "To be played by September 1st, 1927," I am of the opinion that the quoted clause fixing a time limit within which the pictures must be exhibited by the exhibitor does not conflict with nor qualify the provisions of the contract for the selection or designation of play dates.

If after the distributor has given the exhibitor notice of the date of availability of a picture the exhibitor fails to select a date or dates as provided in the contract the distributor may then designate such date or dates by mailing notice thereof to the exhibitor at least fourteen days before the date or first of the dates so designated.

The failure of the exhibitor to accept delivery of a picture the dates of which have been so designated will give rise to a claim by the distributor which may be submitted to arbitration and the Board of Arbitration has authority to make an award directing the exhibitor to either play the picture upon a date or dates specified in the award, or failing which to pay the rental thereof.

Accordingly, the distributor need not wait until a time immediately before September 1, 1927 to designate play dates for the pictures provided for.

The playing arrangement in the contract in question is not a definite specification of play dates. Therefore, as

provided in the Article of the Standard Exhibition Contract for the selection or designation of play dates, the distributor is given the right as therein provided and upon the condition therein stated to fix such dates.

[fol. 2388] It should be noted that in the first paragraph of that article of the Standard Exhibition Contract it is provided "the exhibition date or dates of each of the photoplays unless definitely specified in the said schedule, or otherwise agreed upon shall be determined as follows: "To play during a specified month or week, or within a fixed period of time after the happening of an event, or prior to a specified date, is not a definite specification of exhibition dates.

Therefore, it is incumbent upon the distributor to proceed to select play dates in accordance with the provisions of the Article.

The Board of Arbitration, in the instant case, having made an award Warner Brothers are, of course, willing to abide by it.

So that the members of the Boad of Arbitration may not err in the future, I suggest that you read this letter to them.

Gabriel L. Hess, General Attorney.

Ex. 10-10, P.W.

[fol. 2389] San Francisco Film Board

[fol. 2390] Ex. 376

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

November 3, 1926.

Mr. Milton A. Nathan, Executive Secretary, San Francisco Film Board of Trade, San Francisco, Cal.

Dear Mr. Nathan: Following is the answer to the first question put by you in your letter of October 25, 1926:

The fact that the exhibitor is carrying out his contract with the United Artists because of the award directing him to do so, does not relieve the United Artists of its obligation, under the Rules and Regulations Relating to Arbitra-

tion, from demanding security for the performance of such contract, because of the exhibitor's failure to comply with the award in favor of another distributor. Accordingly, the United Artists should demand security, as provided for in the Rules and Regulations for the performance of the contract which the Board of Arbitration directed the exhibitor to comply with.

As to the second question put by you, the total value of the contract has no bearing upon the amount of security that may be demanded. See Rule IV as amended. F. B. O. having been awarded $216, why should it demand security unless the award in its favor provides for the delivery of pictures by F. B. O., in which case such delivery should not be made until the sum awarded has first been paid?

Very truly yours, (Sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Union Label—347.
Ex. 276.

[fol. 2391] Ex. 277

October 25, 1926.

Mr. Gabriel L. Hess, General Attorney, 469 5th Av., New York, N. Y.

Dear Mr. Hess: Here are two propositions I would like to submit to you for your consideration and advice.

1. United Artists Corporation recovered an award against an exhibitor. The award required the exhibitor to date and play certain photoplays on the contract of United Artists. Thereafter another distributor secured an award against the same exhibitor, and security was fixed at $100 on each existing contract. The exhibitor complied with the award in favor of United Artists and every week gives a date for the pictures unplayed and undated on the contract held by that exhibitor, on which contract the United Artists award was made. United Artists endeavored for a long time to get the dates of this exhibitor and now that the exhibitor is giving them is very reluctant to require security on the contract in question, especially as these dates are now given in accordance with an award of the Board compelling the exhibitor to give the dates and play the pictures. What should United Artists do under these circumstances?

2. F. B. O. secured an award against an exhibitor in the sum of $216 and some odd cents. The Joint Board of Arbitration fixed the maximum security to be demanded on each existing contract at $100. If F. B. O. demands $100 it will be required, of course, to play out the contract and this security will be less than the amount of the contract and less than the amount of the award. What should F. B. O. do under such circumstances?

With kind regards, I am,

Very truly yours, Milton A. Nathan, Atty. & Ex. Secy.

MAN:SW.
Ex. 277.

[fol. 2392] Ex. 278

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

July 21, 1927.

To secretaries of all film boards of trade:

Enclosed is a copy of a letter received from Mr. Louis Phillips, Secretary of the New York Film Board of Trade, bearing date July 18, 1927, and a copy of my reply thereto with reference to that provision of the Standard Exhibition Contract which provides for the payment of damages to another exhibitor in case an exhibitor fails to forward or delays forwarding (as directed by the distributor) any print to such another exhibitor.

I recommend that you furnish to the members of your Board of Arbitration copies of these letters.

Sincerely yours, (Signed) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

(2 Encl.)
h.d

Ex. 278.

[fol. 2393] Ex. 279

Copy

New York Film Board of Trade, 1560 Broadway, New York

July 18th, 1927.

My Dear Mr. Hess: I desire to call your attention to a case which I tried before the Joint Arbitration Board last week which involves an important principal.

A claim was filed by an exhibitor against Educational Films for damages for failure to deliver a picture contracted for. Educational's failure to deliver was caused by the delay of the exhibitor who previously exhibited this picture in returning same as required by the contract immediately following the last performance with the result that a "misout" resulted to the exhibitor who filed his claim.

I invoked the provisions of the contract which provide that in such case the exhibitor who had been damaged should proceed against the exhibitor who delayed in returning the print. This resulted in a three cornered proceeding in which both exhibitors and Educational Film were parties.

It was my contention that under the contract, Educational having established that it was without fault in causing the "misout" it was not liable to the aggrieved exhibitor in any sum of money and that the award, if any, should be rendered against the exhibitor who was at fault.

The arbitrators agreed with the soundness of this position because of the provisions of the contract but felt that if an award was rendered against such exhibitor in favor of the aggrieved exhibitor, the latter exhibitor would be unable to enforce his award.

To satisfy them that there was a means of enforcement, I urged that the failure of the exhibitor to satisfy such an award justified the distributors in demanding security as required by the contract just the same as when an award is rendered in favor of a distributor against an exhibitor. In other words, in the instant case, the failure of this exhibitor to satisfy the award resulted in a breach of contract which justified all distributors in demanding security and distributors are just as much interested in seeing such an

award satisfied as if the award were rendered in favor of the distributor. The arbitration provisions of the contract, it seems to me, justify this position.

The abitrators followed this view and rendered an award accordingly against the exhibitor who was at fault and exonerated Educational.

Are you in accord with these views?

Sincerely yours, (Signed) Louis Phillips, Atty. & Executive Secy. New York Film Board of Trade.

Ex. 279.

[fol. 2394] Ex. 280

Copy

July 20, 1927.

Mr. Louis Phillips, Secy. New York Film Board of Trade, New York.

DEAR MR. PHILLIPS: This is in reply to your letter of July 18, 1927.

I concur in your opinion that upon the failure of an exhibitor to comply with an award in favor of another exhibitor because of such exhibitor's failure or delay in forwarding a print (as directed by the distributor) to the other exhibitor, members of the Film Boards of Trade are obligated under the Rules and Regulations Relating to Arbitration to proceed to enforce such award as therein provided by demanding security for the performance of each of their respective existing contracts with the exhibitor against whom the award was made.

Sincerely yours, (Sgd.), Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Ex. 280.

[fol. 2395] Ex. 281

Film Boards of Trade, 469 Fifth Avenue, New York

Subject:——.

June 30, 1927.

To secretaries of all film boards of trade:

For your information, enclosed you will find a copy of my letter to Secretary of the Washington Film Board of

Trade, bearing date June 29th, 1927, in respect to the practice of exhibitors who, without right, arbitrarily refuse shipments of pictures contracted to be shown at a fixed date because of their ability to spot-book pictures from other distributors.

Sincerely yours, (Sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Enc.
Ex. 281.

[fol. 2396] Ex. 282

Copy

June 29, 1927.

Mr. James B. Fitzgerald, Secy. Washington Film Board of Trade, Washington, D. C.

Dear Mr. Fitzgerald: This is in reply to your letter of June 27th, 1927.

It seems to me that members of a Film Board of Trade may, without violating the law, agree among themselves to refrain from spot booking a picture to an exhibitor on a date that such exhibitor has contracted for and agreed to exhibit a picture of any one of them.

The exhibitor having contracted with one member to exhibit pictures on a fixed date is obligated to carry out and perform such contract unless for reasons deemed sufficient he claims because of some provision of his contract or some act of the distributor he is released or relieved from such obligation, in which case such claim under his contract must be submitted to arbitration and such redress as he is entitled to will be given to him by the Board of Arbitration.

The practice of exhibitors who without right arbitrarily refuse shipments of pictures contracted to be shown on a fixed date because of their ability to spot book pictures from other distributors is a bad one, and should not be permitted to continue.

Therefore, the plan of your members to inform each other of the intention of an exhibitor to refuse to exhibit a picture upon an agreed date with the understanding and agreement among them not to spot book such exhibitor a picture on such date or the date immediately preceding it

is, in my opinion, one which seeks to do away with an abuse and does not violate the statutes enacted to prevent restraint of trade.

Sincerely yours, Gabriel L. Hess, General Attorney.

Ex. 282.

[fol. 2397] Ex. 283

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

March 14, 1928.

Miss Clare Foley, Secy. San Francisco Film Board of Trade, San Francisco, Calif.

Dear Mr. Foley: This is in reply to your letter of March 8, 1928.

Section 1282 of the California Arbitration Law in no wise affects the practice of the San Francisco Board of Arbitration under the Arbitration Rules. Accordingly, your Board of Arbitration should continue as it has in the past to hear the testimony of the claimant and to make an award thereon in all cases where the respondent fails to appear or answer after notice of hearing.

Arbitration as it is conducted in the motion picture industry and the enforcement of awards as provided in the Arbitration Rules are not affected by the enactment of the California Arbitration Law. It is only in cases where either parties to a controversy submitted to arbitration under the Standard Exhibition Contract are desirous of securing an order of the California Superior Court of the city and county in which the arbitration proceedings were had, confirming the award, and for the entry of judgment thereon, that resort must be had to Section 1282 of the Statute for an order directing that such arbitration proceed in the manner provided for in the contract.

If, in the instant case, counsel had proceeded under the Statute, the application for an order to confirm the award would not have been made until after an award had been obtained as the results of proceedings taken under Section 1282 for an order directing the arbitration to proceed. This

has been the practice under the New York State Statute for years.

[fol. 2398] There may be a default award under the Arbitration Rules and there may also be a default award under the California Arbitration Statute, provided in the latter case application to the court is first made for an order directing arbitration to proceed. If such application is made, and the respondent then defaults an award may be made upon such default, and judgment entered accordingly.

Please advise the members of your Board that they are not liable for damages for demanding security and suspending service because of an exhibitor's failure to comply with such demand in the event that an exhibitor fails or refuses to comply with an award made by the San Francisco Board of Arbitration upon his default in appearance, or his failure to answer.

Sincerely yours, (Sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

HD.

Ex. 293.

[fol. 2399] Ex. 284

March 8, 1928.

Gabriel L. Hess, General Attorney Film Board of Trade, New York City.

Dear Mr. Hess: Mr. Nathan advised me that he intended to write you about this same matter, but since it came up for discussion at our Board meeting and our members wanted to be advised, I am also writing you.

Attached is copy of letter which Mr. Nathan addressed to the local F. B. O. office reporting progress of a suit which they filed against Mr. Paul Thon who formerly operated the Yosemite Theatre, Merced, Calif., and who is not at the present time operating any theatre.

According to Mr. Nathan, when this case came up for hearing, Mr. Thon's attorney objected to the fact that the award was a default award, in other words, that the Arbitration hearing was had without the presence of Mr. Thon. Although he was notified by registered mail, he did not appear nor answer and the Arbitration Board went ahead and made the decision after hearing the evidence submitted.

As you will note in Mr. Nathan's letter, he advised F. B. O. that he agreed with Mr. Thon's attorney. I am attaching hereto copy of the California Arbitration law and I have marked Section 1282 containing the point in question. The interpretation which Mr. Nathan and Mr. Thon's attorney have given to this section of the Statute was taken from the first sentence in Section 1282. Their contention is that when a party fails to answer the notice of hearing of an Arbitration case, that they fail or refuse to perform the agreement of arbitration and in that case the aggrieved party must petition the Superior Court for an order directing that such arbitration proceed.

What we would like to know is whether our Arbitration Board is within its rights to continue to make an award on and controversy submitted to it after hearing the testimony offered, when the defendant in an Arbitration proceeding fails to appear or answer notice sent.

This matter has not been referred to the Board of Arbitration but was merely discussed in the Film Board meeting and the members of this Board would like your opinion as to what procedure should be followed in cases like this arising in the future.

Very truly yours, —— —— Executive Secretary.

CFR.

[fol. 2400] P. S.—Would members of this Board be liable for damages for demanding security and suspending service on account of an exhibitor's failure to comply with an award made where said exhibitor failed to appear or answer.

This question was also raised by Mr. Nathan.

C. F.

Ex. 284.

[fol. 2401] Washington Film Board

[fol. 2402] #23

January 14, 1927.

Mr. L. H. Flinn, Asst. to General Counsel, Film Boards of Trade, 469 5th Avenue, New York City, N. Y.

Dear Mr. Flinn: I do not like to be bothering you with correspondence, but on January 4th I wrote you asking for

some assistance on four different cases that were causing us a little concern and not having any reply to that letter I wired you on January 12th, asking whether or not you had received my letter of the 4th—and to date I have not received any reply either to the letter of the 4th or the telegram of the 12th.

Thought that I had better call this to your attention in the event that my letter did not reach you or had been misplaced in your office.

Very truly yours, James B. Fitzgerald.

JBF/ms.

[fol. 2403] #30

Film Boards of Trade, 469 Fifth Avenue, New York.

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

January 25, 1927.

Mr. James B. Fitzgerald, Secretary Washington Film Board of Trade, Washington, D. C.

Dear Mr. Fitzgerald: In your letter of January 24, 1927 you ask the question "How may we suspend service at the Park Theatre when we do not have any contracts with Mr. Machet at that theatre?"

The contracts with the Hoffman Park Theatre, Inc., for the exhibition of pictures at the Park Theatre may be cancelled by those distributors to whom notice to do so was given by Machet, provided, of course, the notice was given in the name of the Hoffman Park Theatre, Inc. It is obvious that Machet, as an individual, cannot give notice to cancel a contract made with a corporation, even though he be president of such corporation.

As to new contracts which Machet now desires to enter into because the Hoffman Park Theatre, Inc., no longer operates the Park Theatre all exchanges would be justified, under the Rules and Regulations Relating to Arbitration, in refusing to make and enter into new contracts with Machet, individually, on the ground that he had failed to comply with an award against him involving the Wardman Park Theatre, unless he complies with the demands, which I assume were heretofore made upon him for security for the

performance of contracts then existing for the exhibition of pictures at the Wardman Park Theatre, and at the Aladdin Theatre, or complies with the award.

Yours very truly, (Signed) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2404] #31

January 24, 1927.

Mr. C. C. Pettijohn, General Counsel, Film Boards of Trade, 469 Fifth Avenue, New York City, N. Y.

DEAR MR. PETTIJOHN: Have a situation in this territory, upon which we wish advice from you as to how to proceed:

Mr. Nathan Matchet operated individually, the Wardman Park Theatre, Washington, D. C., and the Aladdin Theatre, Balto., Md. He operated the Park Theatre as President of the Hoffman Park Theatre, Inc., Wash., D. C.

An award was rendered against Mr. Matchet on a contract for service at the Wardman Park Theatre. This award was not complied with and Mr. Matchet's service was temporarily suspended at the Wardman Park Theatre as well as the Aladdin Theatre.

About ten days ago, Mr. Matchet served notice in writing on the majority of the members of the board, that the Hoffman Park Theatre, Inc., was through and to cancel all contracts for service at the Park Theatre in the name of the Hoffman Park Theatre, Inc.

He has been receiving spot bookings at the Park Theatre pending investigation, as to whether or not he was now operating the Park Theatre personally. We now have that information. He is operating the Park Theatre as an individual.

How may we suspend service at the Park Theatre when we do not have any contracts with Mr. Matchet at that theatre? He has already made some spot bookings which will last him for a period of two weeks.

Do we have to give him any notice that we will not serve him any pictures in his individual name at the Park Theatre unless he places a security with the member?

[fol. 2405] Please furnish me this information as quickly as it is possible.

Very truly yours, James B. Fitzgerald.

JBF/ms.

[fol. 2406] #32

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

February 11, 1927.

Mr. James B. Fitzgerald, Washington Film Board of Trade, Washington, D. C.

Dear Mr. Fitzgerald: Replying to your communication of January 25 and February 9 beg to advise that if the contracts for all of these pictures were made the same day, the same time, part of the same transaction, then it will be considered one contract.

However this is a severable contract. Each picture would have to be shipped separately before the exhibitor could be held to have breached his contract.

Very truly yours, (Signed) L. H. Flinn, L. H. Flinn, Assistant to General Counsel.

[fol. 2407] #33

February 9, 1927.

Mr. L. H. Flinn, Asst. to General Counsel, Film Boards of Trade, 469 5th Avenue, New York City, N. Y.

Dear Mr. Flinn: On January 25th I sent you a letter, copy of which is herewith enclosed and upon which I have not had a reply.

I was able however to settle this matter "before Arbitration" satisfactorily to the Distributor as well as the Exhibitor, but I would like to have your opinion in this case for future reference.

Very truly yours, Jmaes B. Fitzgerald.

JBF/ms.
end.

[fol. 2408] #34

January 25, 1927.

Mr. L. H. Flinn, Asst. to General Counsel, Film Boards of Trade, 469 5th Avenue, New York City, N. Y.

Dear Mr. Flinn: I am going to write you on a question that I feel sure that you are going to disagree with me on, however, I will need your advice.

When United Artists Corporation enter into contracts with various exhibitors they make separate contracts for each picture and these contracts are construed to be individual and separate contracts and can be accepted or rejected accordingly.

Now my point is this. United Artists Corporation takes eight contracts—they accept six and they reject two. The exhibitor wires in to cancel all contracts as he gave one contract for eight pictures. Shipment is made on one contract and picture is refused.

When the time comes to make a shipment of another picture on another contract, it is my contention that United Artists Corp. would have to ship that picture although I feel that you are going to disagree with me and claim that the breach on the one contract goes to the breach of all the contracts. It would appear to me to be inconsistent to say that the eight contracts are separate and individual contracts and then turn around and say that the breach of one went to all.

This is the situation which I have in mind and I would like to have you give me your advice on it.

Best wishes and kindest regards, I am

Very truly yours, James B. Fitzgerald.

JBF/ms.

[fol. 2409] #35

Film Boards of Trade, 469 Fifth Avenue, New York

Subject: Bicycling—Copyright Protective Bureau.

March 7, 1927.

To presidents of all film boards of trade:

Our plan to handle bicycling has been worked out and Mr. Flinn is going to visit the various Boards and explain the manner in which the subject will be handled.

He will visit the Boards first where we believe the situation is most acute, and will, of course, advise you when he is to be in your city.

In the meantime, and until he reaches you, please refrain from sending out any publicity to the various trade papers, with reference to any decision in any bicycling case. Several reports that have been published of late are inaccurate,

improperly stated and not at all helpful to the intelligent handling of the situation.

Very truly yours, (Signed) C. C. Pettijohn, C. C. Pettijohn, General Counsel.

[fol. 2410] #37

Film Boards of Trade, 469 Fifth Avenue, New York

Subject: ——. March 21, 1927.

To all secretaries of film boards of trade:

Under separate cover I am sending you blank forms which are to be used in connection with the work of the "Copyright Protection Bureau" of Film Boards of Trade.

Form No. 1, is to be filled in and forwarded to this office as soon as a "bicycling" claim is filed with your Board of Arbitration.

On form No. 2, you will report the disposition of the case, and it is imperative that we receive this report promptly in order that the national docket of cases may be accurately kept.

Form No. 3, is the salesmen's report which is to be used as explained in paragraphs eight and ten of Mr. Hess' letter of March 7th, in which he outlined the plan of operation of this bureau.

The exchange employes' cards, form No. 4, will only be used in the larger cities. The secretaries to whom these cards are sent will please follow the instructions set out in paragraph thirteen of Mr. Hess' letter of March 7th.

Within a few days we will forward to you a supply of booking blanks which are to be used in the preparation of master booking charts.

Please let me have an early report on pending "bicycling" claims.

L. H. Flinn, Assistant to General Counsel.

[fol. 2411] #38

Film Boards of Trade, 469 Fifth Avenue, New York

Subject: ——. March 14, 1927.

To secretary of each film board of trade:

Enclosed are a number of copies of a letter to the General Sales Managers of the National Distributors concerning the

establishment, operations and financing of the Copyright Protective Bureau of the Film Boards of Trade.

Please address and deliver one copy to each member of your Board representing a regional distributor with the request that all Regi-nal Distributors act and be guided accordingly.

Very truly yours, Gabriel L. Hess, General Attorney.

Encl.

[fol. 2412] #38

March 7, 1927.

To secretaries of all film boards of trade:

A "Copyright Protection Bureau" has been established in this office at the suggestion and with the approval of all National Distributors.

The purpose of this bureau is to prevent the unauthorized exhibition of motion pictures, ("bicycling") and to assist distributors in the recovery of damages sustained by them, through the Boards of Arbitration.

The "bicycling" evil cannot be abated, nor the bureau properly function, unless at all times there is received the whole-hearted co-operation of all secretaries, Branch Managers, Salesmen and Exchange employee. The assistance asked of them will take but very little of their time, will not distract from their other duties and will result in stamping out the evils of "bicycling."

The Boards of Arbitration, in making awards in "bicycling" cases will be urged to adopt as the basis for every award the amount specified in the United States Copyright Law, a minimum of $250. a maximum of $5000. This is only fair since the distributors, the arbitration clause of the Standard Exhibition Contract, cannot sue in the federal courts, but must submit to arbitration. Therefore, the boards should award, at least, the minimum amount that could be recovered through the courts. The payment of a mere nominal rental by the offending exhibitor will not act as a deterrant. On the contrary, it encourages this practice.

In as many cases as possible, and particularly in those in which the exhibitors have flagrantly, or repeatedly "bi-

cycled" or sub-rented pictures, Mr. L. H. Flinn, of this office, will personally prepare the complaint and present the evidence to the Board of Arbitration. He will remain in each exchange center until all such cases are disposed of. Mr. Flinn will also examine the proof in each case as to its sufficiency, and, if insufficient, will advise what additional evidence will be necessary to secure for a successful prosecution of the claim.

All Branch Managers will forward to this bureau, through their respective home offices, any, and all, information or proof relative to "bicycling." They have already been instructed not to negotiate any settlements unless so advised by this home office.

[fol. 2413] The names and theatres of all exhibitors who have unlawfully exhibited pictures in the past, and those suspected of this practice, but against whom the proof is deemed insufficient to warrant the filing of claims, will be listed and card indexed in the bureau office, and particular attention will be given to all exhibitions at such theatres.

Salesmen, as they travel through the territory in which such theatres are located, should be instructed to note on printed cards (prepared by the bureau) the title of each picture being shown at such theatres (a list of which should be furnished them) at the time of their visit, and also the pictures which are there advertised for future exhibition. They should be instructed to secure copies of programs where possible, and to promptly forward the cards and programs to you.

The bureau office will obtain copies of the advertisements of exhibitions from newspapers published where these suspected "bicyclers" are located and these also will be forwarded to you.

From time to time you will be asked to prepare master booking charts of suspected theatres and of those against whom complaint has been lodged. A form upon which exchange bookers can list all bookings has been prepared and will be sent to you. The lists, salesmen's cards, programs, and newspaper advertisements will then be examined to learn if any pictures were used without contract therefor.

Forms of complaints which are to be followed in cases on "switching" and sub-renting have been prepared and will be furnished to you.

All shipping clerks should be instructed to examine closely the shipping labels on returned film containers. Such examination often discloses that pictures have been "switched" or subrented. When a switch is thus discovered the labels must be retained as evidence. In several recent cases, the removal of the last or outside label showed that the print has been "bicycled." In each case where the return of the prints has been delayed the labels should be examined and also a careful inquiry should be made to ascertain the reason if any for the delay.

In the larger cities, all exchange employees should be asked to furnish the names of the theatres in the immediate neighborhood of their home; and to *bo*tain the weekly program of such theatres either by having their names placed on the theatres' mailing list, or obtaining them at the theatre. The pictures advertised in these programs should be listed by you and immediate inquiry made of each exchange to ascertain if the exhibitors have contracted for such pictures. You will also prepare an index of these [fol. 2414] theatres, so that if a complaint is made against any one of them you can refer to the employees' cards and find out in whose neighborhood the theatre is located. You should then ask the employee, or employees, to report to you, from time to time, the pictures being shown at such theatre.

A "bicycling committee" of your Board to aid you in this work should be appointed by your President. It is recommended that the committee be made up of "bookers" employed by your members.

Many reputable exhibitors are anxious that steps be taken to prevent "bicycling" since it is the most unfair kind of competition. Several exhibitors' publications have editorially denounced the practice. The officers and members of Exhibitors organizations will aid in uncovering these cases, especially where the "bicyclers" are competing with reputable exhibiters.

Forms will be furnished upon which you will report the filing and disposition of "bicycling" claims. These reports must be made promptly so that the national docket can be kept up to date.

Please immediately prepare a list of the names of exhibitors, their theatres and location, against whom claims have

been made or filed for "switching" or sub-renting, and also of those exhibitors suspected of the practice, but against whom proof was deemed insufficient to warrant the filing of claims, and send same to the bureau.

Ask your President to call a special meeting of your Board to outline what is proposed to be done in connection with the operations of this bureau so that the aid and assistance of your members and their exchange employees can be secured.

You are especially asked not to give this plan, nor the work, any publicity.

Yours very truly, Gabriel L. Hess, General Attorney.

[fol. 2415] #39

Proposed Plan of Operation of Copyright protection Bureau

Following is a general outline of a plan of operation of the proposed copyright protection bureau or "bicycling" department, of Film Boards of Trade:

The purpose of the department will be to prevent the unauthorized use of photoplays, and to recover damages sustained by the companies by direct settlement with the exhibitor, or through the Boards of Arbitration.

The "bicycling" evil cannot be abated unless this department, at all times, receives the whole-hearted co-operation of General Sales Managers, Branch Managers, Salesmen and Exchange employees. The assistance to be asked of them will take but very little time; will not detract from their other duties; will incur no extra expense and will still result in a profitable return to their companies.

The first work will be to convince members of the various Boards of Arbitration that in making awards in these cases that they should use as a basis, the amount provided for in the U. S. Copyright Act, the minimum being two hundred and fifty ($250.00). This is only fair since the distributors, under the Arbitration clause, cannot sue directly in the Federal Courts, so that Boards should award, at least, the minimum amount that could be recovered through the courts. The payment by the exhibitor of a mere nominal rental will not act as a deterrent. On the contrary it encourages this dishonest practice.

In as many cases as possible, and particularly in those in which the exhibitor has flagrantly and repeatedly "bicycled" or sub-rented pictures, I will personally gather the evidence, prepare the complaint, present the evidence to the Arbitration Board, or make a settlement directly with the exhibitor. I will remain in each exchange center until all such cases are disposed of. Before any claim is filed with the Arbitration Boards, I will examine the proof as to its sufficiency, and if insufficient, will advise the branch managers and others as to what further evidence will be necessary to successfully prosecute the claim.

All branch managers will be asked to forward to this department through their respective home offices, any and all information or proof relative to "bicycling" and will be requested not to negotiate any settlements unless so advised by this office.

The names, names, of theatres, etc., of all exhibitors who have unlawfully exhibited pictures in the past, and those suspected of such practice, will be listed and card indexed and particular attention will be given to the exhibitions at [fol. 2416] such theatres. As salesmen cover the sales territory in which such theatres are located, they will be asked to note on a card, the title of the picture being shown, and those advertised for future exhibition. In as many cases as possible they will also be requested to get copies of programs. These will be promptly forwarded to the secretary of the Film Board of Trade in that territory.

Through clipping bureaus this office will obtain advertisements of exhibitions from newspapers published in the towns or counties in which these suspected "bicyclers" are located. These also will be sent to the secretaries of the Film Boards of Trade.

The secretaries will then be asked, from time to time, to prepare master booking charts. The salesmens' cards, programs, and advertisements will be compared, or checked with said charts, and many times will disclose "bicycling".

In the larger cities exchange employees will be asked to furnish the name or names of theatres, or the theatre located in their immediate neighborhoods and to obtain weekly programs from these houses, either by having their names placed on the theatres' mailing lists, or getting them from the theatre. The picture advertised in these programs will

be listed by the secretary of the Film Board of Trade and inquiry will then be made of each exchange to ascertain if the exhibitors have contracted for such pictures. A committee in each Film Board of Trade can aid the secretary in this work.

An examination of shipping labels on returned films by the shipping clerks often discloses that pictures have been "switched" by the contracting exhibitor to some other theatre, or sub-rented to an exhibitor in a nearby town. In several recent cases, the removal of the last or outside lable, showed this to be the case. In each case where the return of a print is delayed, inquiry will be made to ascertain if same was unlawfully exhibited.

Many reputed exhibitors are anxious that steps be taken to prevent "bicycling" since it results in unfair competition. Several exhibitors' publications have editorially denounced the practice. Some officials and members of these organizations will aid in uncovering these cases, especially in communities where the "bicyclers" are competing with reputable exhibitors. Just recently it was suggested to an exhibitor who admitted that he had repeatedly "bicycled" pictures that he join the local exhibitors' association "with the end in view of learning ethical and proper methods used in the exhibition of pictures".

In each exchange center I propose to establish contacts outside the industry.

[fol. 2417] In the home office a national docket of all cases will be kept up to date, showing the status and disposition of same. Forms of complaints, reporting cards, master booking sheets, etc., will be prepared from time to time.

A number of cases are pending at this time and should receive early attention.

[fol. 2418] #40

Film Boards of Trade, 469 Fifth Avenue, New York

June 11, 1927.

Subject: ——.

To all secretaries of all film boards of trade:

Please disregard the form of Bicycling Award sent you on June 9th, 1927 because of the error in omitting the phrase "member of the —— (insert name)" in paragraph

2, at the end of line 3 thereof, after the word "each", and use the enclosed form instead.

Sincerely yours, (Signed) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2419] #40

Corrected copy.

June 11, 1927

Form of Award in Bicycling Cases

"That —— ——, the Exhibitor, in violation of the contract between the Exhibitor and the Distributor, dated —— —, ——, and in violation of the Copyright Law of the United States knowingly exhibited, or caused to be exhibited (or knowingly permitted or caused to be permitted to be exhibited) the motion picture entitled ——, at the —— Theatre, of —— on the — day of —— 19—, and that by reason thereof we award to —— ——, the Distributor, the sum — Dol-ars ($—) as damages.

"Upon the failure of the exhibitor to fully comply with this award within seven days from the date thereof the sum of $— is hereby fixed as the maximum amount which each member of the —— (insert name) Film Board of Trade (if the exhibitor's theatre is situated in overlapping territory, insert names of all Boards of Trade the members of which serve the exhibitor) having a contract with the exhibitor may demand pursuant to the provisions of the Arbitration Clause contained therein as security for the performance by the Exhibitor of each such contract."

Extract from letter to Mr. Jack Levin, St. Louis Film Board of Trade—4-26-27.

[fol. 2420] #42

Confidential

June 27th, 1927.

Mr. Gabriel Hess, General Attorney Film Boards of Trade, 469 Fifth Avenue, New York City.

Dear Mr. Hess: There is a system in vogue in this territory that I am not in accord with and I personally believe the practice to be a dangerous one, therefore am writing to ask you if it should not be discontinued at once.

An exhibitor has a feature booked for June 27th, the Distributor learns that the exhibitor does not intend to lift it and advises the other distributors not to book any feature to the exhibitor on that date thereby forcing the exhibitor to take the feature he originally booked. This only applies where the book is attempted to be made on the same day or the date before play date.

Thanking you very kindly for your opinion in this matter, I am,

Sincerely yours, —— ——.

JBF-BHS.

[fol. 2421] #49

July 18th, 1927.

Copyright Protection Bureau, Film Boards of Trade, 469 5th Avenue, New York City, N. Y.

Dear Sir: I am enclosing you herewith, form showing that claim has been filed with this Board for bicycling.

I might advise you at this time that this is a very small town and I doubt very much whether or not the Exhibitor can pay the amount of the claim. In this case, the United Artists Corporation had two signed contracts on which the pictures were bicycled and two contracts on which the pictures were bicycled and two telephone calls which were never reduced to writing, these pictures were also bicycled and are included in the amount of the claim.

Very truly yours, James B. Fitzgerald.

JBF/MS.
end.

[fol. 2422] #55

Copy

Copyright Protection Bureau, 469 5th Avenue, New York City

August 9th, 1927.

To all presidents and secretaries of film boards of trade:

It occurs to me that probably the salesmen employed by members of your Film Board of Trade are not familiar

with Section 28 of the Copyright Law, which you will see quoted below on this letterhead. In fairness to them it should be called to their attention for the reason that they may in their enthusiasm to get business "aid" or "abet" the infringement of a copyrighted picture by making verbal agreements with an exhibitor (which of course do not appear on the contract submitted to his home office) which permit an exhibition of a picture not provided for in the contract.

Would it not be well to call this to the attention of all of your members so that they in turn can inform their salesmen?

Enclosed is a sufficient supply of copies of this letter to distribute among your members.

Very truly yours, (Signed) C. C. Pettijohn.

[fol. 2423] #59

Film Boards of Trade, 469 Fifth Avenue, New York

December 2, 1927.

Subject: ——.

To all secretaries of film boards of trade:

This office is almost daily in receipt of complaints from exhibitors in the various distributing zones complaining about some Arbitration Board decision which they think is unfair.

I am enclosing herewith a copy of one of these complaints together with my reply to the exhibitor and my letter to the secretary of the Philadelphia Film Board of Trade.

I am sending this to each Film Board of Trade secretary so that you may read these letters and understand the policy of this office with reference to all such complaints and so that you may all understand just how we desire to handle all such complaints, straightening out as far as is humanly possible any situation where either the distributor or the exhibitor complaining may be right in his contention.

Very truly yours, C. C. Pettijohn, General Counsel.

[fol. 2424] Copy

Twin City Theatre Co., Inc., Strand Theatre, Easton, Pa.

Nov. 30, 1927.

C. C. Pettijohn, Esq., General Counsel for Film Boards of Trade, 469 Fifth Avenue, New York City, N. Y.

My Dear Mr. Pettijohn: I want to put flatly before you the following case which was heard by the Board of Arbitration in Philadelphia on November 22nd, 1927, and ask you if this is a fair and just decision in view of the facts:

I had a contract with F. B. O. dated August 12, 1926, for 24 feature productions and 18 two reel pictures. The contract on its face said "First run in Easton", and further, that these shows are not to be played or sold to the Fourth Street Theatre in Easton until the entire contract has been played in its entirety.

F. B. O. sold the pictures covered by my contract to the Fourth Street Theatre on or about June 13, 1927, and several pictures were played by the Fourth Street Theatre, and further, that since June 13th, there were about ten other pictures included in the contract played by the Fourth Street Theatre.

Mr. Rosen, the salesman for F. B. O. testified before the Board of Arbitration that before he sold the contract to the Fourth Street Theatre, he called on me and that I gave him permission verbally to sell the contract to the Fourth Street Theatre, regardless of whether I had completed it or not. This I deny and did deny before the Board of Arbitration.

My contract very specifically states that no verbal arrangements or agreements are part of the contract, and I took the position that F. B. O. never having received any permission from me, either in writing or verbally, and more so writing, to sell the Fourth Street Theatre during the existence of the contract which I held with them, that it was a breach on their part, since they entered into the contract with the Fourth Street Theatre and permitted the Fourth Street Theatre to play any of the pictures as covered by my contract.

In June of 1927 I advised F. B. O. of the breach by writing I did not make a carbon copy of the letter and, therefore, was unable to produce it at the meeting of the Board of Arbitration and F. B. O. denied ever having received such a letter.

On September 9, 1927, I again wrote to F. B. O. which letter was introduced by F. B. O. to the effect that I had no intentions at that time to refuse to play the pictures under the contract, but subsequently however, I did advise F. B. O. that I would not play the pictures under the contract in view of their breach and I took the position that I had the right to do one of three things. I could have sued for damages by breach of the contract by F. B. O. Secondly, I could refuse to play any pictures on the contract. Thirdly, I could elect to play any pictures in the contract, without waiving any rights on the said breach. In short, I could pick out [fol. 2425] any part of the pictures on this contract and play them if I desired, in so far as I was the aggrieved party and had my election as to my remedy.

In September subsequent to September 9th, F. B. O. having been notified of my intention not to play the pictures on the contract, set in dates on certain of the pictures, amounting to $600.00. The Arbitration Board then found, in the face of all this evidence and these facts, as follows:

"This Board finds that the exhibitor has submitted no evidence to support his statement that he notified the distributor during the month of June 1927 that the contract dated August 12th, 1926, had been violated by the Distributor. It has also been noted by this Board that the exhibitor's letter of September 9, 1927, advised the Distributor of the Exhibitor's intention not to refuse to play the pictures under the said contract. This Board therefore, decides that the Exhibitor be required to pay to the Distributor within seven days from the date hereof, the sum of $600.00 covering the rental of the following pictures."

You will, therefore, note that the Board of Arbitration awarded to F. B. O. the full amount of the rental value of the pictures as covered by this contract and I submit to you that if this condition is permitted to exist that a contract therefore as to protection means absolutely nothing to an exhibitor.

It is well understood that verbal agreements are not permitted to alter a contract but that decisions of Boards of Arbitration are based entirely upon the contract in question and what right, therefore, has an exhibitor as to protection even when it is written in the contract?

I may further call your attention to the fact that Mr. Jack Greenberg acted as Secretary of the Board of Arbitration in the hearing of this case and Mr. Greenberg is Secretary of the Film Board of Trade and he sat in with the Committee on its deliberations.

Is there any relief for me? Can I not appeal this case? Can I not have it re-opened and the Board of Arbitration be instructed as to the validity of contracts? I believe this to be one glaring instance for the elimination of the arbitration system now adopted and now used, and it looks clearly to me as if the exhibitor members of the Arbitration Board, who sat upon this case, were intimidated by the distributor representatives, and I am considering very seriously of giving this matter wide publicity, although I have not as yet definitely made up my mind.

Awaiting your reply, I am,

Very truly yours, (Signed) C. D. Buss, Manager
Strand Theatre, Easton, Penna.

CDB-H.

[fol. 2426] Copy

December 1, 1927.

Mr. C. D. Buss, Manager Strand Theatre, Easton, Pa.

Dear Mr. Buss: I have your letter of November 30th which sets out in detail your statement and understanding of the facts in connection with your dispute with F. B. O.

You ask me whether or not the decision of the Arbitration Board on your statement of facts was a fair and just decision. To begin with I only have your side of the case; secondly I do not desire to criticize the decision of any Arbitration Board on any statement of facts by any one of the partisans without at least having before me a statement of facts from the other party.

Under the statement of facts submitted by you I can make one or two observations. If F. B. O. sold you pic-

tures "first run in Easton" and subsequently F. B. O. went to you and asked your permission to sell the same pictures to the Fourth Street Theatre under a contract which conflicted in any way with your protection, they should have secured your permission in writing and not attempted to prove such an agreement or understanding with parole evidence. My own observation is that you put yourself in a peculiar position in writing by stating to F. B. O. in your letter of September 9th when you stated you had no intention of refusing to play the pictures you had under contract with F. B. O. I believe that an Arbitration Board, if they saw fit to do so, might have construed that to be a waiver on your part and might have believed that evidence to be sufficient corroboration for Mr. Rosen's statement that you agreed to let him sell the pictures to the Fourth Street Theatre.

The whole controversy could have of course been avoided if the F. B. O. salesman had secured your consent in writing subsequently permitting F. B. O. to sell the pictures to the Fourth Street Theatre as they did.

I do not criticize the Arbitration Board for finding that your letter of September 9th could be construed as such permission. I am not in sympathy however in this case, or in any other case, with oral or parole agreements. The fact that Mr. Greenberg was secretary of the Film Board of Trade is no reason why he should not serve as secretary of the Arbitration Board. He has no vote, and I have never heard that he has tried to influence the Philadelphia Arbitration Board in any of their decisions.

Let me now address myself to the last paragraph of your letter which contains some statements that I must answer. You state that this is one of the "glaring instances" that calls for "the elimination of the Arbitration system". "A glaring instance", according to your definition is an instance that affects you or hurts you and not one which either helps or hurts the industry as a whole. When people engaged in this business can look at the problems from the [fol. 2427] standpoint of the entire industry instead of their own particular view point, we will all be better off.

You speak of the elimination of the Arbitration system because of one decision you believe to be bad and affecting you personally, without mentioning the fact that probably

10,000 good decisions have been rendered as against a total of 25 to 50 bad decisions. Don't you think it is best for this industry to let the 10,000 good decisions stand and devote what brains, patience and integrity we have to the correction of the 25 to 50 bad decisions, trying to eliminate or correct the damage in these few bad decisions rather than to devote the same time and energy to the elimination of the entire system which brought about the 10,000 good decisions? These figures are of course arbitrary but I do not believe they are far from the facts.

You speak of giving this matter wide publicity. I believe that our Arbitration system can stand any such wide publicity. Every good and constructive measure or reform in the history of the world has had to stand its full share of criticism but things that are right and good always come out on top and you will find Arbitration in the motion picture industry will survive any criticism growing out of any individual case or any "glaring instance", that may be directed against it.

I have this suggestion to make. I will send your letter and a copy of my reply to Mr. Greenberg, secretary of the Philadelphia Arbitration Board. I will ask him to read your letter and my reply at the next meeting of that Arbitration Board and I will ask these six men to carefully review and reconsider this case that you complain about. If any one of the six men feels that a wrong or a hardship has been worked aaginst you by reason of that decision, I will ask them to again hear the case and make the usual finding by majority vote.

I am not doing this in an effort to deter you in any way from indulging in all the publicity you care to indulge in. I am only trying to make sure that you have suffered no wrong and that you are not the victim of a bad decision. In this you and every other exhibitor in America will always have my sincere cooperation as long as I hold this job. I do not, however, want to place myself in the position of being threatened or frightened and I wish you would clearly understand that what I am doing in this matter does not emanate from any such emotions.

Kindest personal regards.

Sincerely yours, C. C. Pettijohn, General Counsel.

[fol. 2428] Copy

Film Board of Trade of Philadelphia, Pa., 1337 Vine Street

Jack H. Greenberg, Secretary

December 3, 1927.

Mr. C. C. Pettijohn, Film Boards of Trade, 469 Fifth Avenue, New York.

DEAR MR. PETTIJOHN: I am in receipt of your letter of December 1st, enclosing copies of letter which you received from Mr. C. D. Buss, the exhibitor operating the Strand Theatre, Easton, Pa., and also your reply to same.

I have carefully read both of these letters. It is my intention to act upon the suggestion outlined in your letter; that is to read both of these letters to the Board of Arbitration at their next meeting, and to ask said Board to carefully review and reconsider this case, and if any one of the men on said Board feels that a hardship has been worked against the exhibitor by reason of that decision, to ask them to again hear the case, and make the usual findings by a majority vote. However, it is my opinion that this would be a very dangerous presedent, as it would leave an outlet for every exhibitor or distributor to ask a Board of Arbitration to reconsider a hearing after a decision has once been rendered.

[fol. 2429] According to the procedure under which this Board has been operating, we have made it a rule that no award can be reconsidered, or set aside unless the exhibitor or distributor can prove that fraudulent evidence was introduced at the hearing. Therefore, if there is any possible way in which to prevent having this matter presented to the Board of Arbitration for reconsideration, I would like to do so, as I am afraid that the reopening of this case will cause no end of trouble. It is very possible that one or two of the men sitting on the Board of Arbitration have, since the hearing of this case, been approached by outside parties, who may have induced them to reconsider the matter, and put it in an entirely different light.

While Mr. Buss may have had, in his opinion, a justified cause for complaint because the Board of Arbitration took into consideration a verbal understanding, nevertheless there were certain facts which entered into the matter which it is very difficult to explain. A person would actually have to have been in the room, and have heard the witnesses testify in order to determine the credibility of the parties.

I enclose herewith a true copy of the minutes of this case, for which you will note that the F B O contended that they held a contract the previous year containing similar clause, and in which permission was granted at that time, verbally, for them to sell the Fourth Street Theatre, and which they did without any objections being raised. This time, the salesman again took it for granted that Mr. Buss's word held good, and did not, therefore, deem it necessary to secure his consent in writing. This was not denied by Mr. Buss.

It is not my purpose to render any opinion as to the fairness of this decision, but I merely wish to place all the facts before you in the event that you decide to go further into the matter. I am sure that Mr. Buss has not written this letter voluntarily, but has acted upon the suggestion of either the President or Secretary of the Exhibitor's organization in this territory.

The next meeting of the Board of Arbitration is to be held on Friday, December 9th, and I would like you to advise me just what action to take in this matter, prior to that time. I presume that you desire this case presented to the same body of men who originally sat on the Board.

I might add that the Board of Arbitration who rendered this award deliberated for about two hours before they arrived at the decision.

With kindest personal regards, I am,

Sincerely yours, Film Board of Trade. (Sgd.) J. H. Greenberg, Secretary.

JG.D.
encl.

[fol. 2430] Copy

Meeting of the Joint Board of Arbitration Held Tuesday, November 22nd, 1927, at 2:00 p. m., 1337 Vine Street, Phila.

Mr. S. Wittman, Chairman.

Case No. 1, F B O Pictures Corporation vs. C. D. Buss, Strand, Easton, Pa.

Mr. J. H. Greenberg acted as Secretary in this case.

Committees: Distributors, Applegate, Weiner, and Neufeld; Exhibitors, Perlin, Power and C. F. Kline.

This case was continued from November 15, 1927.

Claim: Distributor advised that he held contract with the exhibitor dated August 12, 1926, for twenty-four feature productions and eighteen two reel pictures. Up to this time, the exhibitor had played fourteen features and sixteen two reel comedies; the last feature picture having been played on September 22nd, 23rd, and 24th, and the last two reel subjects played on October 27th, 28th and 29th, 1927. The distributor advised that they had written to the exhibitor numerous times, informing him of the availability of the pictures, and requested dates. Having failed to receive any response to their numerous demands for dates, on September 8, 1927, they notified the exhibitor by registered mail that dates had been assigned as follows: October 3rd, 4th, and 5th "Red Hot Hoofs", October 10th, 11th, and 12th, "Her Father Said No", October 10th, 11th and 12th Wise Cracker. October 17th, 18th, and 19th "Cyclone of the Ranger", October 17th, 18th, and 19th Wise Cracker. Oct. 24th, 25th and 26th, "Splitting the Breeze." October 31st, November 1st and 2d "Mother." November 7th, 8th and 9th, "Tom's Gang." The rental price on the above pictures was $1200.00, and the distributor made claim for that amount.

Defense: The exhibitor was present, and advised that a letter had been received from the distributor that service had been suspended under this contract. The exhibitor, therefore, questioned the right of the distributor to demand payment for pictures after service had been suspended.

It was found that the letter suspending service had been sent to the exhibitor on October 19th, and that inasmuch as only $600.00 worth of pictures had been refused prior to that date, the exhibitor advised that they would defend this case in the amount of $600.00 instead of $1200.00. It was afterwards found that this was an error, and that the letter suspending service was mailed out on November 2nd, and the distributor, therefore, asked that the claim be based on the pictures which had been refused prior to the date that service had been suspended. The exhibitor introduced his contract, and called attention to the protection clause contained therein, which provided that the pictures were to be played first run in Easton, and further "That these [fol. 2431] shows were not to be sold or played at the Fourth Street Theatre in Easton until the entire contract had been played in its entirety." The exhibitor noted that on June 13th, the picture "Bigger Than Barnum" was advertised to be played at the Fourth Street Theatre, and called that to the attention of the distributor by letter, and verbally. However, nothing was done by the distributor in the matter. The exhibitor further contended that at no time did he grant the distributor any permission, either by letter or verbally to sell or to play any of the pictures included in that contract to the Fourth Street Theatre. The exhibitor called attention to the fact that since June 13th, ten other pictures which were included in his contract, had been played at the Fourth Street Theatre. The exhibitor was asked by the Board if he had a copy of the letter written to the distributor in June, notifying them that the pictures were being exhibited at the Fourth Street Theatre, to which the exhibitor replied that he kept no copies of letters written by him.

The distributor advised that the first intimation that they had that the exhibitor objected to the Fourth Street Theatre playing the pictures was when they received a letter from the exhibitor dated September 9th. The distributor introduced said letter for evidence and read same to the Board, which stated that the exhibitor had no intention to refuse to play the pictures under said contract. The distributor admitted that certain pictures under the contract had played at the Fourth Street Theatre, but these

were played at the Fourth Street Theatre eight or nine months after they had been exhibited at the Strand Theatre. The distributor advised that their Mr. Rosen had called on the exhibitor operating the Fourth Street Theatre, Easton, Pa., numerous times, in an endeavor to sell him pictures which had not been contracted by the Strand Theatre, but the Fourth Street exhibitor refused to buy said picture unless they would include in said scale. The Fred Thompson pictures which were in the contract in dispute. Rosen having sold the contract to the Strand Theatre, knew of the existing clause and would, therefore, not sell the Fourth Street any of the pictures included therein. Later, Mr. Rosen went to see Mr. Buss, and secured his permission to sell some of the pictures in said contract to the Fourth Street Theatre. Mr. Rosen, in his dealings with Mr. Buss, always found him honorable, and did not consider it necessary to secure his consent in writing. The distributor called attention to the fact that the year previous, they had sold the exhibitor a contract containing the same clause, and that subsequently he had given them verbal permission to sell the pictures to the Fourth Street Theatre, and that there had never been any objection. The distributor advised that they were ready to have their Mr. Rosen testify to the fact that permission had been granted him by Mr. Buss to sell the Fourth Street Theatre. The distributor further called attention to the fact that the exhibitor apparently did not object to the Fourth Street Theatre playing these pictures, because he had since then exhibited both features and short subjects.

The exhibitor raised objection to the introduction of any evidence based on any verbal statement made by either party. The exhibitor contended that they were the aggrieved parties in this matter, and that they had any one of three remedies to offer: First, that they were within their rights in claiming damages for the breach of the contract. Second: they could refuse to play any pictures [fol. 2432] under said contract. Third: they could elect to play any pictures in said contract without waiving their rights on said breach. The exhibitor called attention to the fact that the contract contained a proviso that if any pictures included therein were a series, featuring a particular star, They could not be required to exhibit more than one

picture every five weeks. The dates as assigned by the distributor contained four pictures featuring Tom Tyler, at the rate of one each week, and as this was contrary to the terms of the contract, the claim covering more than one Tyler could not be allowed. The exhibitor asked the Board to render their award on the contract itself, and that they do not consider any verbal statements or agreements as part of the contract.

The Board then went into session, and after discussion, decided to have Mr. Rosen testify. Mr. Rosen was called before the Board, and advised that he would be willing to swear that Mr. Buss had given him permission to sell the pictures to the Fourth Street Theatre, prior to the completion of said contract, and that from his former dealings with Mr. Buss, he did not deem it necessary to secure a written consent.

This statement was denied by Mr. Buss, who claimed that at no time had he given Mr. Rosen or anyone else, permission to sell the pictures to the Fourth Street Theatre.

Decision: This Board finds that the exhibitor has submitted no evidence to support his statement that he notified the distributor during the month of June, 1927, that the contract dated August 12, 1926 had been violated by the distributor. It has also been noted by this Board that the exhibitor's letter of September 9, 1927, advised the distributor of the exhibitor's intention not to refuse to play the pictures under said contract.

This Board, therefore, decides that the exhibitor be required to pay to the distributor within seven days from the date hereof, the sum of six hundred dollars, covering the rental of the following pictures:

Oct. 3rd, 4th, and 5th, "Red Hot Hoofs"	$150.00
Oct. 10th, 11th, and 12th, Wise Cracker Series	50.00
Oct. 10th, 11th, and 12th, "Her Father Said No"	150.00
Oct. 17th, 18th, and 19th, Wise Cracker Series	50.00
Oct. 31st, Nov. 1st and 2nd "Mother"	200.00
Total	$600.00

Payment of this amount will give the exhibitor the privilege of playing these pictures at any future date, without further charge.

Upon the failure of the exhibit to fully comply with this award within seven days from the date hereof, the sum of five hundred dollars is hereby fixed as the maximum amount which each distributor, a member of the Film Board of Trade of Philadelphia, having contracts with the exhibitor, may demand pursuant to the provisions of the arbitration clause contained therein as security for the performance by the exhibitor of each such contract.

Respectfully submitted.

[fol. 2433] Copy

Film Boards of Trade, 469 Fifth Avenue, New York

December 17, 1927.

Subject: ——

To all secretaries of all film boards of trade:

Please refer again to my letter of December 2, 1927 to all Secretaries of the Film Boards of Trade enclosing copies of my correspondence with Mr. C. D. Buss and the Secretary of the Philadelphia Film Board of Trade, in which I stated in my letter to Mr. Buss that I would ask the members of the Philadelphia Board of Arbitration to review and reconsider his case if anyone of the six arbitrators felt that a wrong or a hardship had been worked against him.

In view of the well settled principles of the law of arbitration that only one award can be made and that by making such award the arbitrators terminate their authority, in other words, that there may not be a rehearing of a controversy upon which the arbitrators have made a decision, I want to make it clear that my letter to Mr. Buss should not be construed to mean that I intended that there should be any deviation from such principle of law.

What I had in mind was that if there existed any of the causes for setting aside the award, that is, those that are specified in he 14th paragraph under the heading "The Award," of the "Recommendations to Arbitrators Appointed Under the Rules and Regulations Relating to Arbitration in the Motion Picture Industry Based Upon the Suggestions of the American Arbitration Association for the Guidance of Arbitrators" that the arbitrators should

consider any evidence thereof submitted in an application to set aside the award, and that if any one of them believed there were grounds for so doing, then upon a vote of the majority action should be so taken.

[fol. 2434] Accordingly please impress upon the members of your Film Board of Trade that it was not my intention to recommend a rehearing in that controversy or any other.

Sincerely yours, C. C. Pettijohn, C. C. Pettijohn, General Counsel.

R.

[fol. 2435] #65

March 6, 1928.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 5th Avenue, New York City, N. Y.

Dear Mr. Hess: I overheard one of the Exhibitor Arbitrators tell an Exhibitor that in case a Distributor was to breach a contract by violating protection on four pictures of a contract, or by reason of four missouts on a contract, that that Exhibitor could file a complaint with the Joint Board of Arbitration for damages sustained by the breach and at the same time request cancellation of the entire contract.

Off hand I do not agree with this Arbitrator, it being my opinion that the Exhibitor would have an election either to sue for damage or for the cancellation of the entire contract.

Sincerely yours, James B. Fitzgerald.

JBF/ms.

[fol. 2436] #64

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

March 16, 1928.

Mr. James B. Fitzgerald, Secretary Washington Film Board of Trade, 805 Fifth Street, N. W., Washington, D. C.

Dear Mr. Fitzgerald: This is in reply to your letter of March 6, 1928.

If a distributor contracts to deliver a group or number of pictures each for exhibition for a date specified in the contract and if the distributor fails to deliver any of such pictures in time for exhibition on the date so specified, as to such pictures, it is my opinion the distributor has breached the contract.

As a contract for two or more pictures is a severable contractual obligation the breach of contract as to any one picture is not a breach which would terminate the contract as to the remaining pictures unless it can be shown that the breach was in respect to a picture which was of such outstanding importance as to sustain a claim that the remaining pictures were contracted for only because of the desire of the exhibitor to secure the right to exhibit the particular picture which the distributor failed to deliver.

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess,
General Attorney.

D:A.

[fol. 2437] #15

September 24, 1926.

DEAR SIR: In our efforts to combat bicycling we are often hindered and at times completely blocked by the actions of branch Managers accepting a compromise of their company's claims against exhibitors whom we have found upon convincing and undisputable evidence to have been bicycling.

Many exhibitors making a practice of bicycling immediately they learn an investigation of their operations has been or is being conducted rush into the exchange centers and by offering to make new contracts or to pay an amount of money succeed in settling the claims against them. This results, first in discouraging if not preventing a prosecution under the penal provisions of the United States Copyright Law and second in keeping from the trade generally and from distributors in particular the knowledge that an exhibitor has been found to be a bicycler.

If Branch Managers are permitted to settle claims for bicycling it will continue in spite of all of the efforts that are being made to stamp it out. From past experience it

is obvious that exhibitors who bicycle believe that when caught all they need to do is to settle for the pictures of which proof of bicycling has been secured. Therefore they continue bicycling because if pictures are bicycled over a long period of time the rental value of which for example is $1,000 they take the chance that if they are caught proof of bicycling to the extent of only one-fourth of that sum will be secured and for which settlement will be accepted, leaving the exhibitor $750 ahead.

Accordingly may I not ask that you instruct all of your Branch Managers not to settle or submit for arbitration any claim against any exhibitor for bicycling until after submission thereof to you and that this office be advised of all such submissions before you sanction any action thereon to enable us to advise you of any facts or report we may have in our possession in respect thereto.

I would greatly appreciate a copy of your letter of instructions in this respect to your Branch Managers.

Very truly yours, Gabriel L. Hess, General Attorney.

[fol. 2438] #16

Film Boards of Trade, 469 Fifth Avenue, New York

Subject: ——.

September 28, 1926.

To all secretaries film board- of trade:

In furtherance of the efforsts being made to stamp out "bicycling" enclosed is a copy of a letter which has been sent to the respective General Sales Managers of all national distributors represented in the membership of the Film Boards of Trade.

Please deliver a copy of this letter to each member of your Board representing a regional distributor with a request that no settlements or compromises of claims arising out of the action of exhibitors in bicycling pictures be made without first submitting to this office, a statement of the facts and circumstances of each case.

Very truly yours, (Signed) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2439] #69

United Artists Corporation

June 20, 1928.

Mr. Gabriel Hess, 469 Fifth Avenue, New York City.

Dear Mr. Hess: In regard to the Film Board of Trade in Washington hearing cases relative to non-payment of contracts covering pictures that have been played, I am advised by our exchange in Washington that the Film Board of Trade is willing to hear all cases of this nature provided they are not cases in which the Distributor has extended credit to the exhibitor by shipping the picture to him open account.

I gathered from the conversation I had with you the other day that you concur in my opinion that regardless of whether a picture is shipped open account or shipped COD, and not paid for, the contract has been breached and the film board of Trade in whatever locality the breach takes place, should hear the claim and decide accordingly.

I would appreciate very much your taking this matter up with the Washington Film Board and straightening them out in this matter.

Yours sincerely, United Artists Corporation.
(Signed) S. W. Taylor.

SWT:EP.
Copy.

[fol. 2440] #68

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

June 22, 1928.

Mr. James B. Fitzgerald, Secretary Washington Film Board of Trade, International Exchange Bank Bldg., Washington, D. C.

Dear Mr. Fitzgerald: Enclosed you will find copy of a letter bearing date June 20, 1928 received from Mr. S. W.

Taylor of United Artists Corporation concerning the policy of your Board of Arbitration in the hearing of cases relative to non-payment of contracts for pictures that have been played.

Will you be good enough to furnish me with a detailed report in the matter and advise me if there is any foundation in fact for Mr. Taylor's contention? If there is, what are the reasons for the attitude of your Board of Arbitration?

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

31:18.

[fol. 2441] #67

June 27th, 1928.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 5th Avenue, New York City, N. Y.

Dear Mr. Hess: I have for acknowledgment, your favor of June 22nd, enclosing copy of letter from Mr. S. W. Taylor of United Artists Corporation with reference to complaints filed with the Washington Board of Arbitration for the non-payment of film rental.

In this connection I wish to advise, if my memory serves me correctly, that some three years ago and prior to my assuming office as Secretary of this Board, the Universal Film Exchange extended credit to an exhibitor in this territory to an amount in the neighborhood of $1000.00, and not being able to collect the amount brought a claim before the Arbitration Board, and the Exhibitor Arbitrators at that time took the position that they would not permit the Disributors to make a collecting agency out of them, and that where a Distributor extended credit to an Exhibitor he would have to collect the money himself.

I was able to relieve this situation to some extent, in that the Exhibitor Arbitrators agreed to hear the following cases:

Where an Exhibitor advised the exchange he was mailing check for show and then did not mail it.

Where check is dishonored.

Where shipment was sent "open account' thru error.

Although I fully realize that complaints of the kind referred to by Mr. Taylor should be heard by the Board of Arbitration, it is my personal opinion that the present system under which we are operating is better, because the Distributor knows that he should not extend credit and consequently a show that is not paid for goes forward c. o. d. and the Distributor obtains his rental therefor before it is played and following such practice the Distributors carry a very small debit balance and rarely lose by [fol. 2442] the small Exhibitor disposing of his theatre indebted to the exchange for film rental.

The matter which Mr. Taylor evidently refers to is now receiving my personal attention and I am in receipt of a letter from Mr. Karanicholas, the Exhibitor, that check will be mailed to me before Friday and this will dispose of the only case that I know of where United Artists Corp. has a debit balance against an Exhibitor that they are unable to collect.

Sincerely yours, James B. Fitzgerald.

JBF/ms.

[fol. 2443] F B O

Film Booking Offices of America, Inc., Executive Offices, 1560 Broadway, New York, N. Y.

April 1, 1927.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 Fifth Avenue, New York City.

Dear Mr. Hess: I have learned that the Cameo Theatre, Bridgeport, bought pictures under the name of the Connecticut Theatre Entertainment Corporation. I further find out that this Connecticut Theatre Entertainment Corporation was never cleared by the Credit Committee in New Haven.

Nevertheless, the owner of this theatre, Mr. Gottesman, was able to buy pictures. He bought pictures, I believe, from Fox, Metro-Goldwyn, and Warner Brothers under this corporate name.

We have a claim against this theatre, and I really believe our claim would have been settled before this date if this corporation had not been sold pictures, because these com-

panies have kept them supplied with pictures for six or seven weeks.

All of this is for your information. I am not stating it in the form of any complaint. If you care to look into it further, it is O. K., and if not, it is O. K. with me.

With kindest regards,

Sincerely yours, (Signed) Lee Marcus, General Sales Manager, Film Booking Offices of Amer., Inc.

LM:BR.

(Pencil note on margin:) Inform him what we have done in the matter.

[fol. 2444] April 2, 1927.

Mr. Lee Marcus, General Sales Mgr., Film Booking Offices of America, Inc., 1560 Broadway, New York.

Dear Mr. Marcus: This is to acknowledge receipt of your letter of April 1, 1927, in respect to the award made by the New Haven Board of Arbitration in your favor against Mr. Alfred Gottesman, who formerly operated the Cameo Theatre, Bridgeport, Conn. I had a letter from your Mr. Jacobs, New Haven Branch Manager, under date March 30, 1927, on this subject, advising that this exhibitor had recently purchased some theatres in New Jersey. I sent that letter to Mr. Phillips, Secretary of the New York Film Board of Trade with the recommendation that it be submitted to the Credit Committee for consideration, and at the same time I asked Mr. Phillips to report to me any facts which his Credit Committee may ascertain as to the operations of this exhibitor of theatres in New Jersey.

As soon as I receive a report from Mr. Phillips, I will communicate its contents to you.

Yours sincerely, Gabriel L. Hess, General Attorney

[fol. 2445] Copy

First National Pictures, Inc.

April 8, 1927.

Mr. Gabriel Hess, Film Board of Trade, 469 Fifth Avenue, New York City.

Dear Mr. Hess: In the New Haven territory F. B. O. have Mr. Alfred Gottesman of the Cameo Theatre, Bridge-

port, on cash deposit. We have not been doing business with Mr. Gottesman for some time past. It so happened that Martin Keleher was unable to sell our Constance Talmadge Picture, Venus of Venice, to Poli at a fair price for Bridgeport, so he asked me to get in touch with Mr. Gottesman and draw up a contract which I did. Mr. Keleher did not know at that time that Mr. Gottesman was on cash deposit and neither did I.

We accepted Mr. Gottesman's contract and confirmed a play date to him.

What further action do you suggest on our part in this matter? Of course we acted in all good faith in soliciting business with Mr. Gottesman.

Cordially yours, A. W. Smith, Jr., Sales Manager

Copy to New Haven Film Board of Trade.

[fol. 2446] April 11, 1927.

Mr. A. W. Smith, Jr., Sales Manager, First National Pictures, Inc., 383 Madison Avenue, New York.

Dear Mr. Smith: This is in reply to your letter of April 8, 1927, in respect to your transaction with Mr. Alfred Gottesman, of the Cameo Theatre, Bridgeport, Conn. who is on the cash deposit list.

Under the circumstances outlined in your letter I know of nothing that can be done in the matter. Since you accepted and approved his application it has ripened into a contract, and you are bound to make delivery of the picture contracted for.

I will advise the New Haven Film Board of Trade of the facts, with the recommendation that no action be taken against First National Pictures, Inc. in this matter.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol. 2447] April 11, 1927.

Miss Kathryn T. Sullivan, Secy. New Haven Film Board of Trade, New Haven, Conn.

Dear Miss Sullivan: We are in receipt of a letter from Mr. A. W. Smith, Sales Manager of First National Pictures, Inc. bearing date April 8, 1927, in respect to the transaction with Mr. Alfred Gottesman, of the Cameo Theatre, Bridgeport, Conn., copy of which we enclose herewith.

Under the circumstances I recommend that no action be taken by your Board against First National Pictures, Inc. They are, of course, bound to make delivery of the picture contracted for.

Yours very truly, Gabriel L. Hess, General Attorney. Enclosure.

[fol. 2448] Cable Address Unfilman

Universal Film Exchanges Inc.

Heckscher Building, 730 Fifth Avenue, New York

April 14th, 1927.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: No doubt your are acquainted with a matter that came up in New Haven recently concerning the picture that was sold to the Cameo Theatre, Bridgeport by First National entitled Venus of Venice.

I received copies of correspondence through our New Haven Manager, Mr. Morris Joseph, wherein you advised the Secretary of the New Haven Film Board of Trade that First National should supply the Cameo Theatre with the above mentioned picture.

Mr. Joseph advised me today in a letter that he wants you to know that Mr. Kelleher, the Manager of First National knew that this account was on cash deposit.

If you care to investigate the matter further, please communicate with our New Haven Manager and he will be glad to give you any information that you desire.

Sincerely yours, (Signed) E. W. Kramer, E. W. Kramer, Sales Director.

EWK*JN.

[fol. 2449] April 15, 1927.

Mr. E. W. Kramer, Sales Director, Universal Film Exchanges, Inc., 730 Fifth Avenue, New York.

Dear Mr. Kramer: Simultaneously with the receipt of your letter of April 14, 1927 concerning the picture sold to the Cameo Theatre, Bridgeport, Conn. by First National, I received a copy of the minutes of the meeting of the New

Haven Film Board of Trade held on April 12, 1927 from which it appears that the matter was discussed at great length after a detailed explanation by Mr. Kelleher, the New Haven Branch Manager for First National.

It seems to me that there is nothing further in the matter that can be done.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol. 2450] Film Boards of Trade, 469 Fifth Avenue
New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

May 14, 1927.

Miss K. T. Sullivan, Secy. New Haven Film Board of Trade, New Haven, Conn.

DEAR MISS SULLIVAN: I note in the minutes of the meeting of your Film Board of Trade held on April 26th, 1927 that attention was called to a violation of the Credit Committee Rules in respect to the Rialto Theatre, New Britain, and the Commodore Hull Theatre, Derby.

Please furnish me with a statement of the facts specifying the respective dates when the names of these theatres were listed upon the Credit Information List, and the respective dates when the contracts were entered into, together with the names of the distributors making such contracts.

I also note in the minutes a reference to the Cameo Theatre, Bridgeport, and the facts in respect thereto set forth in your letter of April 27, 1927.

This office cannot meet the expense which would be incurred by the employment of counsel to investigate transfers of theatres. Your members must realize if such expense were incurred only once for each of the thirty-two Credit Committees in the United States, a very substantial sum would be required.

Credit Committees must make their own investigations and in conducting them they may request the parties concerned to appear to explain or make a written statement of the circumstances of a transfer that is suspected of having been made to avoid existing contracts. Upon a refusal of the parties to appear or furnish such statement the Credit

Committee in making their report may draw such inferences from such refusal as in the opinion of the members of the Committee are justified. It seems to me that the Connecticut Cities Entertainment Corporation now claimed to be operating the Cameo Theatre, and in which Mr. Gottesman acquired a 50% stock ownership has been used by Mr. Gottesman in an attempt to avoid his existing contracts [fol. 2451] with F. O. B. and Universal amounting respectively to $4,335 and $5,800, and that therefore the Credit Committee would be justified in reporting that the Connecticut Cities Entertainment Corporation be required to deposit a sum which the Credit Committee should fix as security for the performance of any new contracts such corporation desires to enter into.

By the transfer of the Cameo Theatre to the Connecticut Cities Entertainment Corporation, Mr. Gottesman has made it impossible for him to perform his uncompleted contracts for the exhibition of pictures at that theatre, giving to the distributors holding such contracts the right now to make claims against him for the total rental of all unplayed pictures.

If the lease of the theatre has been assigned by the Connecticut Cities Entertainment Corporation to the Connecticut River Valley Corporation, it should put your members upon strict inquiry when making contracts for the exhibition of pictures at the Cameo Theatre so that they may seek knowledge of the responsibility of the corporation proposing to execute such contracts.

Yours very truly, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2452] United Artists Corporation

Home Office: 729 Seventh Ave., New York

Telephone: Bryant 7300

May 19th, 1927.

Mr. Gabriel L. Hess, Gen'l Attorney Film Boards of Trade, 469 Fifth Avenue, New York City.

Dear Mr. Hess: Mr. Saul Resnick, our Manager at New Haven, advises that the United Artists Corporation has been suspended an indefinite period from membership in

the New Haven Film Board of Trade because Mr. Resnick solicited and accepted contracts from the Cameo Theatre, Bridgeport, after having been advised that the Theatre named was on the cash deposit list.

There does not seem to be any question that our manager committed the offense charged, and of course, we are willing to be penalized for our Manager's breach, but we do not like to be suspended for an indefinite period, and we wish that the length of the suspension could be fixed for a short period.

We have talked with Mr. Resnick about this proposition, and the information which he gives us is to the effect that Metro Goldwyn, First National, Fox, and Producers Distributing accepted contracts from the Cameo Theatre after that theatre had been placed on the cash deposit list, also that Warner Brothers solicited business, but that charges were preferred against Producers Distributing and United Artists only.

As stated above, we feel that we should be penalized, but at the same time, we don't understand why Mr. Jacocks who preferred the charges against Producers Distributing and United Artists, did not also prefer charges against Metro-Goldwyn, First National, Fox, and Warner Brothers, who, if our information is correct, were equally as guilty as we were.

Mr. Resnick states that he did not solicit business from the Cameo Theatre until after the other five companies named herein had solicited, and all, with the exception of Warner Brothers, had accepted business.

Yours truly, United Artists Corporation. (Signed) M. A. Hill, General Sales Manager, Eastern Division.

MAH:R.

[fol. 2453] United Artists Corporation

Home Office, 729 Seventh Ave., New York. Telephone Bryant 7300

May 20, 1927.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 Fifth Avenue, New York City.

Dear Mr. Hess: Since writing you yesterday relative to the suspension of United Artists from membership in the

New Haven Film Board of Trade, information has been received by me which, if correct, raises a question as to whether or not our manager at New Haven did commit an offense by soliciting and taking contracts for the Cameo Theatre, Bridgeport.

I am now informed that contracts were signed with Universal and F. B. O. on behalf of the Connecticut River Valley Corporation, operating the Cameo Theatre, Bridgeport, and that before the contracts had been fulfilled by the exhibitor the theatre was sold by the Connecticut River Valley Corporation to the Connecticut Cities Entertainment Corporation; that when the Connecticut Cities Entertainment Corporation endeavored to secure contracts for pictures for exhibition in the Cameo Theatre, it was denied clearance by the Credit Committee of the New Haven Film Board of Trade, because of its refusal to perform the contracts between the Universal and F. B. O. Companies and Connecticut River Valley Corporation.

Whether the Credit Committee of the New Haven Film Board had the right to refuse such clearance is questionable. If it did not have that right, certainly there was no reason why this company should not have negotiated and signed contracts with the Connecticut Cities Entertainment Corporation.

Yours sincerely, United Artists Corporation. (Signed) M. A. Hill, General Sales Manager Eastern Division.

MAH:JS.

[fol. 2454] Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

May 20, 1927.

Miss K. T. Sullivan, Secy. New Haven Film Board of Trade, New Haven, Conn.

Dear Miss Sullivan: Thank you for your letter of May 18, 1927 with reference to the violation of the Credit Committee Rules in respect to the Rialto Theatre, New Britain and the Commodore Hull Theatre, Derby, Conn.

The contract for the Rialto Theatre, New Britain, entered into by Mr. Scully on April 22nd though for the same pic-

tures at a reduced rental price contracted for with the previous owner is a new contract with the new owner and the making of such contract when the name of the theatre was listed on the Credit Information List is a clear violation of the Credit Committee Rules, for which it seems to me Mr. Scully should be censured.

As it was a mistake to put on the Credit Information List a new theatre, there can be no criticism of Mr. Kelcher for entering into a new contract on April 25th for the exhibition of pictures at the Commodore Hull Theatre, Derby, Conn. It is only when a theatre is transferred or sold that it should be immediately listed on the Credit Information List.

Yours very truly, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2455] (Stamped:) C. C. Pettijohn.

May 20, 1927.

Miss K. T. Sullivan, Secy. New Haven Film Board of Trade, New Haven, Conn.

Dear Miss Sullivan: I note in the minutes of the meeting of your Board held on May 17, 1927 the report of the Board of Governors recommending the suspension of the respective representatives of United Artists Corporation and the Producers Distributing Corporation for an indefinite period for flagrant violations of the Credit Committee Rules.

Please furnish me with a statement of the facts in each of these cases, and also advise the members of your Board at their next meeting that the suspension of members for a violation of any rules of your Board must be for a definite period.

Yours truly, Gabriel L. Hess, General Attorney.

[fol. 2456] Film Board of Trade, 134 Meadow Street, New Haven, Conn.

Colony 6260

May 21, 1927.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 Fifth Ave., New York City.

Dear Mr. Hess: This will acknowledge receipt of your letter of May 20th in which you request a statement of the facts in connection with the suspension of representatives

of the United Artists Corp., and the Producers Distributing Corp., for an indefinite period for violations of the Credit Committee rules.

On January 25th, the Film Booking Offices were awarded a decision by the Board of Arbitration against the Cameo Theatre, Bridgeport. On March 22nd, the Universal Film Exchange received a similar decision against this theatre. The exhibitor failing to abide by the decision of the Board of Arbitration in the F. B. O. case was accordingly placed on Cash Deposit on March 9th.

There was some discussion among the members of the Board regarding the suspension of First National whose Home Office had sold this exhibitor while on Cash Deposit, but in view of your letter of April 11th on this subject in which you recommended that no action be taken by the Board inasmuch as they were bound to deliver the picture contracted for, no action was taken.

The Home Office of Metro-Goldwyn-Mayer had also taken a contract with this exhibitor about this time, but the members felt that this case should be treated the same as that of First National.

In view of these violations, at the meeting of the Film Board of Trade held on April 26th, a motion was passed whereby all Branch Managers agreed to write their General Sales Managers advising them of the status of the Cameo Theatre, Bridgeport, and requesting that they under no [fol. 2457] circumstances sell this account until cleared by the Film Board of Trade.

Notwithstanding the passing of this motion, the local managers of United Artists and Producers Distributing Corp., entered into contract with this exhibitor.

Although the manager of the Producers Dist-Corp., did not write a letter to his Home Office as agreed, he was present at the meeting, as was the manager of the United Artists Corp., when this motion was unanimously passed and all members agreed to abide by same.

In view of the above, the local manager of F. B. O. Mr. Jacocks, preferred charged against these two representatives and their respective companies. The Board of Governors called a special meeting on May 10th and found them guilty of violation of the Film Board of Trade rules and accordingly recommended their suspension.

I trust this explains the matter to your entire satisfaction.

Yours very truly, New Haven Film Board of Trade.
(Signed) K. T. Sullivan, Secretary.

KTS.

[fol. 2458] May 24, 1927.

Mr. M. A. Hill, Genl. Sales Mgr. Eastern Div. United Artists Corporation, 729 Seventh Avenue, New York.

Dear Mr. Hill: With further reference to the suspension of your New Haven Branch Manager from membership in the New Haven Film Board of Trade,* and in reply to your letters of May 19th and 20th in relation thereto,* enclosed is a copy of a report in this matter received from the Secretary of the New Haven Film Board of Trade.

In my letter of April 11th referred to in the report I recommended that no action be taken against the New Haven Manager of First National because I had been informed by First National's Home Office that the contract in question was made and approved in New York without the knowledge of First National's New Haven Branch Manager, and without inquiring from the Film Board of Trade if the name of the exhibitor was listed on the Credit Information List or the list of exhibitors who had failed to comply with awards by the New Haven Arbitration Board against them.

It was because of such circumstance that I addressed my letter of May 12, 1927 to all the General Sales Managers recommending that before contracts were made and approved in New York by the home offices inquiry from the local branch concerned should be made to ascertain if the name of the exhibitor was listed on the Credit Information List, or if there were no outstanding uncomplied with awards against him.

I have written to the New Haven Film Board of Trade recommending that a special meeting of the Board of Governors be convened so that a definite length of time of suspension be fixed.

In respect to the action of the Credit Committee I advised the Committee on May 14, 1927 as follows:

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*See 2462.

[fol. 2459] May 24, 1927.

Miss K. T. Sullivan, Secy. New Haven Film Board of Trade, New Haven, Conn.

Dear Miss Sullivan: This is to acknowledge the receipt of your letter of May 21, 1927 in respect to the suspension of the representatives of the United Artists Corporation and Producers Distributing Corporation.

As I heretofore advised you the suspension may not be for an indefinite period.

Therefore a special meeting of your Film Board of Trade should be called for the purpose of fixing the term of suspension.

After such meeting please advise me of the action taken by the Board in that respect.

For your information enclosed you will find copies of my letters on this subject to Mr. Hill of United Artists, and Mr. Morgan of P. D. C. respectively.

Yours very truly, Gabriel L. Hess, General Attorney.

Encls.

[fol. 2460] May 24, 1927.

Mr. W. J. Morgan, Sales Mgr. Producers Distributors Corp,. 1560 Broadway, New York.

Dear Mr. Morgan: With further reference to the suspension of your New Haven Branch Manager from membership in the New Haven Film Board of Trade, enclosed is a copy of a report in this matter received from the Secretary of the New Haven Film Board of Trade.

In my letter of April 11th referred to in the report I recommended that no action be taken against the New Haven Manager of First National because I had been informed by First National's Home Office that the contract in question was made and approved in New York without the knowledge of First National's New Haven Branch Manager, and without inquiring from the Film Board of Trade if the name of the exhibitor was listed on the Credit Information List or the list of exhibitors who had failed to comply with awards by the New Haven Arbitration Board against them.

It was because of such circumstance that I addressed my letter of May 12, 1927 to all the General Sales Managers recommending that before contracts were made and approved in New York by the home offices inquiry from the local branch concerned should be made to ascertain if the name of the exhibitor was listed on the Credit Information List, or if there were no outstanding uncomplied with awards against him.

I have written to the New Haven Film Board of Trade recommending that a special meeting of the Board of Governors be convened so that a definite length of time of suspension be fixed.

Sincerely yours, Gabriel L. Hess, General Attorney.

Copy to Miss Sullivan, Secy. New Haven Film Bd. of Trade.

GLH/JB.

[fol. 2461] Film Board of Trade, 134 Meadow Street, New Haven, Conn.

Colony 6260

May 24, 1927.

Mr. Gabriel Hess, Film Boards of Trade, 469 Fifth Ave., New York City.

Dear Mr. Hess: At our regular meeting held this morning, some of the members took exception to a paragraph in a letter written by our secretary on May 1st to you on the advice of a member in my absence which read in the case of Metro that the members felt that "this case should be treated as that of First National."

The member meant to convey that the case was felt to be parallel with First National's, but inasmuch as no specific charges had been made against Metro or First National, nothing up to the present had been done about it.

In regard to the suspension of members for an indefinite period the reason that this ruling was made was that our local By-Laws call for such procedure.

Yours very truly, New Haven Film Board of Trade.
(Signed) Harry D. Noble, President.

HDN:S.

[fol. 2462] 5/24/27.

Mr. M. A. Hill: "It seems to me that the Connecticut Cities Entertainment Corporation now claimed to be operating the Cameo Theatre, and in which Mr. Gottesman acquired a 50% stock ownership has been used by Mr. Gottesman in an attempt to avoid his existing contracts with F. B. O. and Universal amounting respectively to $4,355 and $5,800, and that therefore the Credit Committee would be justified in reporting that the Connecticut Cities Entertainment Corporation be required to deposit a sum which the Credit Committee should fix as security for the performance of any new contracts such corporations desired to enter into.

"By the transfer of the Cameo Theatre to the Connecticut Cities Entertainment Corporation, Mr. Gottesman has made it impossible for him to perform his uncompleted contracts for the exhibition of pictures at that theatre, giving to the distributors holding such contracts the right now to make claims against him for the total rental of all unplayed pictures.

"If the lease of the theatre has been assigned by the Connecticut Cities Entertainment Corporation to the Connecticut Silver Valley Corporation, it should put your members upon strict inquiry when making contracts for the exhibition of pictures at the Cameo Theatre so that they may seek knowledge of the responsibility of the corporation proposing to execute such contracts."

Sincerely yours, Gabriel L. Hess, General Attorney.

Copy to Miss Sullivan, Secy. New Haven Film Board of Trade.

[fol. 2463] Film Board of Trade, 134 Meadow Street, New Haven, Conn.

Colony 6260

May 25, 1927.

Mr. Gabriel Hess, Film Boards of Trade, 469 Fifth Ave., New York City.

Dear Mr. Hess: Replying to your letter of May 24th, a special meeting of the Film Board of Trade was called this

morning and at the meeeting a motion was made, seconded and carried that the local representatives of the United Artists Corp., and the Producers Dist. Corp., be suspended for ninety days, instead of indefinitely.

This, we believe, will concur with your suggestion.

Yours very truly, New Haven Film Board of Trade.
(Signed) Harry D. Noble, President.

HDN:S.

[fol. 2464] (Stamped:) C. C. Pettijohn.

July 7th, 1927.

E. W. Kramer, Sales Mgr., Universal Pictures Corp., 5th Ave. and 57th St., New York, N. Y.

Dear Mr. Kramer:—May we not call your attention to the following quoted from the minutes of the meeting of the New Haven Film Board of Trade held on July 5th, 1927:—

"It was brought before the members that Hallowe'en Park, Stamford, Conn., was exhibiting pictures free, although the secretary notified all members to ascertain definitely how these pictures were going to be exhibited before selling contracts. Some of the members stated that Universal Film Exchange was serving this account, that certain exhibitors were complaining. This was denied by Mr. Joseph.

Also brought to the attention of the members that Universal Film Exchange did not receive a Cash Deposit check before serving the Cameo Theatre, Bridgeport, that one picture had been exhibited before the Cash Deposit was received, and that to date distributor has received only $240.00 when he should have received $500.00.

Further brought to the attention of the members that a exhibitor in Norwalk had complained to the President of the Film Board of Trade that the Universal Film Exchange had taken a contract from him and then immediately solicited his opposition, rejecting his. Mr. Joseph, Universal Manager, was asked to give an explanation of these violations, and after much discussion, F. B. O. decided to prefer charges against this exchange."

Yours sincerely, Gabriel L. Hess, General Attorney.

[fol. 2465] Universal Film Exchanges, Inc.

Exchange: New Haven

Date: 7/15/27.

Mr. E. W. Kramer, Sales Director, Home Office.

Dear Mr. Kramer: I have before me a copy of the letter which Gabriel Hess wrote you.

We accepted a contract from the Halloween Park, Stamford, Conn., and on the face thereof, it states specifically that a ten cent (10c) admission is to be charged. If this park does not charge ten cents (10c) at the Box-Office, we have then the privilege of cancelling our contract.

Regarding the amount of deposit from the Cameo Theatre, Bridgeport, Conn., please be advised that their statement is incorrect wherein they say we did not have the deposit. At the time of the signing of the contract, we sold them two (2) pictures and we received a check for $1500.00, $750.00 of which was for the payment of the first picture and the other $750.00 was to be used as a deposit. When the first picture was played, we received a deposit amounting to $240.00 for the second picture.

They mention the fact that I should have received a $500.00 deposit. Can they explain why First National accepted a check for $285.00 for Venus of Venice, which was sold to this theatre, and also why United Artists accepted a deposit of $400.00 for The Beloved Rogue and a check of $320.00 for a Night of Love; and why Fox received a deposit of $277.88 for Is Zat So? as well as a deposit of $251.28 for The Cradle Snatchers and also a deposit of $292.88 for Monte Cristo? Why is it that it's all right for the other members to accept a deposit of four cents (4c) a foot while from me they insist upon a check of $500.00. Another thing, we are supposed to deposit the deposit check. First National and United Artists and Fox did not deposit the checks but returned them undeposited.

Regarding the Regent Theatre, Norwalk, Conn., who claims that we took a contract from him and then immediately solicited his opposition, please note that this is all wrong. We received a contract from the Regent Theatre, but the next morning we received a registered letter can-

celling the contracts. We then went to see his opposition, whom we sold. These are the true facts.

Very truly yours, (Signed) M. Joseph, Branch Manager.

[fol. 2466] Cable Address: Unfilman

Universal Film Exchange, Inc., Heckscher Building, 730 Fifth Avenue, New York

Office of Eastern Sales Director

July 16, 1927.

Mr. Gabriel Hess, Motion Picture Producers and Dist, of America, 469 Fifth Ave., New York City, N. Y.

Dear Mr. Hess: I am attaching herewith copy of letter received today from Mr. Joseph of New Haven which is self explanatory.

I will appreciate it very much if you will investigate this matter through the Film Board of Trade in New Haven. I can't very well censure Mr. Joseph for the manner in which he handled the Cameo at Bridgeport proposition provided the facts as stated by Mr. Joseph are correct.

Please also note what he has to say about the Regent Theatre at Norwalk as well as the Halloween Park at Stamford.

Very truly yours, (Signed) E. W. Kramer. E. W. Kramer, Sales Director.

EWK*EG.
Enc.

[fol. 2467] July 19, 1927.

Miss K. T. Sullivan, Secy., New Haven Film Board of Trade, New Haven, Conn.

Dear Miss Sullivan: Mr. E. W. Kramer, Eastern Sales Manager of Universal Exchanges, Inc., advises that Mr. Joseph, their New Haven Branch Manager, in explanation of the matters referred to in the minutes of the meeting of your Board held on July 5, 1927, in which he is concerned, states as follows:

"We accepted a contract from the Halloween Park, Stamford, Conn., and on the face thereof, it states specifically that a ten cent (10¢) admission is to be charged. If

this park does not charge ten cents at the Box Office, we have then the privilege of cancelling our contract.

Regarding the amount of deposit from the Cameo Theatre, Bridgeport, Conn. At the time of the signing of the contract, we sold them two pictures and we received a check for $1500.00, $750.00 of which was to be used as a deposit. When the first picture was played, we received a deposit amounting to $240.00 for the second picture.

First National accepted a check for $285.00 for Venus of Venice which was sold to this Theatre; United Artists accepted a deposit of $400.00 for The Beloved Rogue and a check of $320.00 for A Night of Love; Fox received a deposit of $277.88 for Is Zat So? as well as a deposit of $251.28 for The Cradle Snatchers and also a deposit for $292.88 for Monte Cristo? We are supposed to deposit the deposit check. First National and United Artists and Fox did not deposit the checks but returned them undeposited.

Regarding the Regent Theatre, Norwalk, Conn., who claims that we took a contract from him and them immediately solicited his opposition, please note that this is all wrong. We received a contract from the Regent Theatre, but the next morning, we received a registered letter cancelling the contracts. We then went to see his opposition whom we sold."

Be good enough to investigate and ascertain whether or not the checks given to First National, United Artists, and Fox by the Cameo Theatre, Bridgeport, Conn., in payment of the amount demanded as security for the performance of the contracts entered into were deposited, and if not, what disposition of them was made.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol. 2468] (Stamped) C. C. Pettijohn

July 19, 1927.

Mr. E. W. Kramer, Universal Exchanges, Inc., 730 Fifth Avenue, New York.

Re: Halloween Park, Stamford Cameo Theatre, Bridgeport Regent Theatre, Norwalk.

Dear Mr. Kramer: This is to acknowledge the receipt of your letter of July 16, 1927 and the copy of Mr. Joseph's letter enclosed therewith.

Acting upon your suggestion I will cause an investigation to be made of the matters referred to by Mr. Joseph, and upon receipt of a report thereon from the Secretary of the New Haven Film Board of Trade, I will write you again concerning the matter.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol. 2469] Film Board of Trade, 134 Meadow Street, New Haven, Conn.

Colony 6260

August 24, 1927.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 Fifth Avenue, New York City.

Dear Mr. Hess: Your advice is sought in the following situation: Gottesman at the Cameo Theatre, Bridgeport, is, and has been for some time, on cash deposit with all distributors in New Haven. He has failed to abide by an arbitration decision and F. B. O. is carrying the case into court in an effort to enforce a fulfillment of Gottesman's contract with them.

Incidentally, the Cameo Theatre has been closed all summer and is due to re-open shortly after Labor Day under the management and reported ownership of Levenson and Eldridge, who you may recall, took over Norwich and Middletown from Gottesman. The question arose at the last Film Board of Trade meeting as to just what attitude the exchanges should take with respect to the Cameo, Bridgeport, Gottesman, et al. While the F. B. O. case is in process of litigation can the exchanges solicit business from this theatre? Is the theatre still considered on cash deposit while the case which resulted in this cash deposit has been taken out of the hands of the local board into a court of law?

I wish you would give us in as untechnical a manner as possible just what procedure the exchanges should adopt with respect to future relations with this theatre. We understand that Gottesman had a fifty per cent interest in the Cameo, Bridgeport and that Levenson and Eldridge have purchased this interest from him.

With kindest regards.

Yours very truly, (Signed) G. T. Ames, Pres. New Haven Film Board of Trade.

GTA:DS.

[fols. 2470 & 2471] August 26, 1927.

Mr. G. T. Ames, President New Haven Film Board of Trade, New Haven, Conn.

(Stamped) C. C. Pettijohn

DEAR MR. AMES: Bearing in mind that both the Rules and Regulations Relating to Arbitration and the Credit Committee Rules must be considered as effecting only the owner or operator of a theatre (the exhibitor) and not the theatre building itself, following are answers to your questions:

Upon the assumption that Gottesman is still the owner of the Cameo Theatre, Bridgeport, the fact that F. B. O. has commenced an action upon its award against him in no wise alters the rights of the other members of your board to solicit and contract for the exhibition of their pictures at such theatre.

You will remember in my talk with your members last June I said that each of them, in the exercise of their individual judgments, could contract (with or without security) with any exhibitor against whom an award was made, or could refuse to do so on the ground that any business relationship entered into with such exhibitor would be unsatisfactory; and that I stated further that the only collective action that could be taken by your members under the Rules and Regulations Relating to Arbitration was that which obligated them to demand security for the performance of their existing contracts because of the failure of an exhibitor to comply with an award of the Board of Arbitration.

As stated above a theatre is never required to deposit security; it is the exhibitor operating such theatre, and the fact that a distributor in whose favor an award has been made against such exhibitor decides to proceed by court action to recover a judgment upon such award, does not alter the status of such exhibitor, so far as the members of your Board are obligated to require security for the performance of their existing contracts with him, and upon his failure to make such deposit, to suspend service or terminate such contracts as provided in the Rules.

If Gottesman has disposed of his 50% interest in the Cameo Theatre to Levenson and Eldridge, such fact may be now considered by the Credit Committee in respect to

the present Credit standing of the corporation operating the theatre; and if a further report removing the name of the corporation from the Credit Information List is warranted, such further report should be made and the corporation's name eliminated.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fols. 2472 & 2473] GOVERNMENT EXHIBIT 36a

Film Boards of Trade

UNITED STATES

v.

PARAMOUNT FAMOUS LASKY CORPORATION et al.

(Arbitration Case)

Miscellaneous Home Office Correspondence,
Film Boards of Trade

Volume II (Supplementary volume)

[fol. 2474] 302-O

Copy

Film Board of Trade of Albany

February 15, 1927.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 5th Avenue, New York City.

DEAR MR. HESS: Will you please advise the writer if an Exchange can claim an award from the Arbitration Board on a picture which has been played, by an Exhibitor, and not paid for?

Our Board contends that they do not act as a Collection Agency and for this reason they have thrown out claims made on pictures played and not paid for.

Thanking you for the above information and awaiting your reply, we beg to remain

Yours very truly, Film Board of Trade of Albany.
——— ———, Sec'y.

Ex. #42, J. P. L.

[fol. 2475] 300-O

Copy

Film Boards of Trade, New York

February 17, 1927.

Miss Jane Holloran, Secretary Albany Film Board of Trade, Albany, N. Y.

Dear Miss Holloran: This is in reply to your letter of February 15, 1927.

There is no grounds for the contention by your board that they do not act as a Collection Agency and for that reason have thrown out claims made for the payment of rental of pictures which have already been played.

The failure of an Exhibitor to pay the film rental specified in a contract of a picture contracted for, whether such picture is shipped upon open account, or not, is a clear and unequivocal breach of contract. In fact, if breaches of contract could be classified, in my opinion, the failure to pay should be classified as the highest degree of breach.

Such breach having occur-ed it gives rise to a claim or controversy which the distributor is bound, under the terms of the Arbitration Clause of the Standard Exhibition Contract to submit to arbitration.

Accordingly, the Board of Arbitration is obligated to hear such claim or controversy, and if the evidence discloses that an exhibitor has failed to pay for a picture contracted for which has been shipped open account the Board of Arbitration must make an award of the amount due in favor of the distributor.

Very truly yours, (Signed) Gabriel L. Hess, General Attorney.

Ex. #40, J. P. L.

[fol. 2476] 652

Copy

January 25th, 1928.

Mr. J. D. Abramson, Secy. Chicago Film Board of Trade, Chicago, Ill.

Dear Mr. Abramson: This is in reply to your letter of January 23, 1928 to Mr. Pettijohn concerning the contemplated action of the members of your Film Board of Trade in reference to advertising accessories.

The second paragraph of Article Fourteenth of the Standard Exhibition Contract provides that all advertising accessories used by the exhibitor in connection with the exhibition of the photoplay licensed must be leased from or through the distributors and must not be sold, leased, or given away by the exhibitor. Therefore, if the exhibitor uses advertising accessories in connection with the exhibition of any photoplay licensed for exhibition by a distributor, other than those which have been leased from or through such distributor, the exhibitor has breached his contract in such respect, as likewise he would do if he disposed of advertising accessories acquired from or through such distributor by sale, lease, or otherwise.

Such breach of contract may, of course, be taken cognizance of by the distributor concerned, and gives rise to a right of action by the distributor for such damages as may have been suffered on account thereof, and probably to a right to an injunction to restrain the sale, lease or other disposition of accessories leased from or through the distributor. In this connection, it should be noted that such claims of breach of contract must by the provisions of the Standard Exhibition Contract be submitted to arbitration before resort to any court to determine or enforce them.

[fol. 2477] The film Boards of Trade, as such, must not be concerned with breaches of contract in this respect because it is for each distributor to determine what course to pursue in respect to breaches of its own contracts. Therefore, the letter suggested in Recommendation #2 should not be sent out by the Film Board of Trade.

I have never heard of any advertising accessories having been copyrighted, and I believe it is the general custom of all distributors not to copyright such material. Hence, the purchase or acquisition by exhibitors of uncopyrighted advertising accessories from a source other than through the distributor cannot be held to be a violation of the copyright law.

The evils resulting from the organization and operations of so-called Poster Exchanges have been the cause of much discussion and comment by distributors, without bringing forth any remedy for their abolition. The remedy, if any, must be determined upon by the distributors concerned, and not by the Film Boards of Trade.

A copy of this letter is being sent to the General Sales Managers of all distributors represented in the membership of the Film Boards of Trade, and also to all Secretaries of All Film Boards of Trade.

Sincerely yours, Gabriel L. Hess, General Attorney.

HD.

[fols. 2478 & 2479] Ex. 66

Copy of Western Union Night Letter

Newcomb Carlton, President. J. C. Willever, First Vice-President

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

6-28-26, 5:35.

Gabriel L. Hess, Film Boards of Trade, 469 Fifth Ave., New York, N. Y.

Kindly give us letter covering our conversation as to exhibitor having more than one theatre being liable to security demand on all contracts for his several theatres after service has been suspended on one house following failure to satisfy Joint Board award stop members intend taking advantage of your favorable ruling.

G. D. Moffett.

Chg. Film B. of Trade.

[fol. 2480] Ex. 67

Film Board of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

June 29, 1926.

Mrs. G. D. Moffett, Secretary Cleveland Film Board of Trade, Cleveland, Ohio.

Dear Mrs. Moffett: This is in reply to your telegram of June 28, 1926 concerning awards against an exhibitor owning or operating more than one theatre.

Awards must be made in favor or against a person, partnership, association, society or corporation, not against a theatre. An award against a theatre is a nullity and cannot be enforced unless it can be fairly implied from the nature of the award that it was made against the person, firm or corporation operating such theatre.

Accordingly if an award is made against an exhibitor who owns or operates more than one theatre the award is required to be enforced by members of the Film Boards of Trade under Paragraph Three of Rule Four of the Rules and Regulations relating to Arbitration which provides that each member shall demand payment by such exhibitor of a sum not exceeding the maximum amount fixed by the Board of Arbitration as in the judgment of such member shall be sufficient to protect such member in the performance of each contract with such exhibitor.

The fact that the contracts with the exhibitor provide for the exhibition of pictures contracted for at several theatres owned or operated by him does not affect or alter the obligation of the members of your Board to demand security for the performance of each of such contracts.

[fol. 2481] Care however must be exercised to ascertain that other theatres owned or operated by the exhibitor than the one involved in the controversy in which an award was made *is* owned or operated by him individually or if the exhibitor is a corporation that such other theatres are owned or operated by the corporation and not a subsidiary.

Very truly yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2482] Ex. 68 A

August 24, 1926.

Gabriel L. Hess, General Attorney, Film Boards of Trade,
469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: At the Board of Arbitration meeting yesterday several cases were heard against an exhibitor who had not disposed of his contracts when selling his theatre and awards were given in favor of the exchanges.

In each instance the exchange had made a shipment to the theatre in the name of the former owner in order to establish a violation of contract and this refused shipment was the basis of the claim with the further demand for the completion of the contract by the payment of the amount due on the pictures still unplayed.

The awards given in those cases required the exhibitor to pay for the refused shipment within ten days but allowed the completion of the contract in accordance with the terms thereof. The exhibitor members of the Board contended that if the defendant in the case pays for the refused show it could not be established that he does not intend to complete his contract by paying for the other pictures within the life of the contract and, therefore, the full payment cannot be demanded in advance. They claim that the exchange need not make any further shipments but must mail a bill to the defendant as each picture is due to be played.

It is our understanding that the refused shipment constitutes a violation of contract and in such cases the full amount of the uncompleted contract becomes due. Are we right in asking for an award covering this full amount so that following the refusal of the exhibitor to comply with the award we may immediately take the case into court. Otherwise, we are tied up for long periods of time. Kindly suggest the form in which our members should file cases of this kind.

Very truly yours, The Film Board of Trade Company. —— ——, Secretary.

GDM.

[fol. 2483] Ex. 68

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

August 30, 1926.

Mrs. G. D. Moffett, Secretary Cleveland Film Board of Trade, Cleveland, Ohio.

DEAR MRS. MOFFETT: This is in reply to your letter of August 24, 1926.

Unless an exhibitor who sells or leases his theatre secures an agreement from the lessee or purchaser to accept in writing an assignment of his uncompleted contracts and delivers an acceptance of such assignment to the distributors concerned the act of the exhibitor in selling or leasing his theatre makes it impossible for him to carry out and perform such contracts and is in effect a repudiation of them.

The distributors concerned are then justified in taking the position that their contracts have been breached and ended making the exhibitor liable in damages for the full rental of the undelivered pictures in such contracts specified.

Under such circumstances the usual procedure of distributors in designating a play date and making a delivery upon the date designated in order to secure evidence of the repudiation by the exhibitor of his contracts is unnecessary.

In cases of this kind I suggest that distributors file a claim for the aggregate amount of the rental agreed to be paid for all of the pictures unplayed at the time of the sale or lease of the exhibitor's theatre and ask for an award in such an amount.

Very truly yours, Gabriel L. Hess, General Attorney.

[fol. 2484] Ex. 57

Film Boards of Trade, 469 Fifth Avenue, New York

Subject: ——.

September 28, 1926.

To all secretaries Film Board- of Trade:

In furtherance of the efforts being made to stamp out "bicycling" enclosed is a copy of a letter which has been

sent to the respective General Sales Managers of all national distributors represented in the membership of the Film Boards of Trade.

Please deliver a copy of this letter to each member of your Board representing a regional distributor with a request that no settlements or compromise of claims arising out of the action of exhibitors in bicycling pictures be made without first submitting to this office, a statement of the facts and circumstances of each case.

Very truly yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2485] Ex. 57

September 24, 1926.

Dear Sir: In our efforts to combat bicycling we are often hindered and at times completely blocked by the actions of Branch Managers accepting a compromise of their company's claims against exhibitors whom we have found upon convincing and undisputable evidence to have been bicycling.

Many exhibitors making a practice of bicycling immediately they learn an investigation of their operations has been or is being conducted rush into the exchange centers and by offering to make new contracts or to pay an amount of money succe-d in settling the claims against them. This results, first in discouraging if not preventing a prosecution under the penal provisions of the United States Copyright Law and second in keeping from the trade generally and from distributors in particular the knowledge that an exhibitor has been found to be a bicycler.

If Branch Managers are permitted to settle claims for bicycling it will continue in spite of all of the efforts that are being made to stamp it out. From past experience it is obvious that exhibitors who bicycle believe that when caught all they need do os to settle for the pictures of which proof of bicycling has been secured. Therefore they continue bicycling because if pictures are bicycled over a long period of time the rental value of which for example is $1,000 they take the chance that if they are caught proof of bicycling to the extent of only one-fourth of that sum will be secured and for which settlement will be accepted, leaving the exhibitor $750 ahead.

Accordingly may I not ask you -- instruct all of your Branch Managers not to settle or submit for arbitration any claim against any exhibitor for bicycling until after submission thereof to you and that this office be advised of all such submission/ before you sanction any action thereon to enable us to advise you of any facts or report we may have in our possession in respect thereto.

I would greatly appreciate a copy of your letter of instructions in this respect to your Branch Managers.

Very truly yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2486] Ex. 64

Copy

October 21, 1926.

Mrs. H. B. Lynch, Secretary Northwest Film Board of Trade, Seattle, Wash.

Dear Mrs. Lynch: This is in reply to your letter of October 13th to Mr. Pettijohn:

The parties to a controversy submitted for determination to arbitrators may, at any stage of the proceedings prior to an award, or thereafter, agree to settle and adjust their differences just as parties to a litigation in court may agree so to do.

It is no more a reflection upon the dignity of the arbitrators, or the stability of the Board of Arbitration, for the parties to do this, than it would be a reflection upon a judge of a court in which an action is pending, or in which a judgment has been entered, to agree upon a settlement, withdrawing the action, or satisfying the judgment, as the case may be.

Judges of courts are not concerned with, or even interested in the settlement litigants may make of their disputes, excepting, of course, when the interests of infants or incompetents are involved. So, too, arbitrators should not be concerned.

A settlement by the parties, of an award, is not a waste of the time of the arbitrators. On the contrary, time is saved because an award is often the means of quickly bringing about an agreement upon most divergent views

which, were it not for the award, would be irreconcilable.

Settlement of awards acceptable to both parties should be encouraged,—not discouraged.

Very truly yours, Gabriel L. Hess, General Attorney.

[fol. 2487] Ex. 63

February 8, 1927.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 Fifth Ave., New York, N. Y.

Dear Mr. Hess: The Cleveland Joint Board of Arbitration would like your opinion as to what recourse and exchange has covering a claim as outlined below:

An Exchange filed a claim against an Exhibitor last April and the Board of Arbitration rendered a decision in favor of the exchange. Inasmuch as the Exhibitor failed to comply with this decision, it became necessary for the Exchange to demand security and suspend service. Along the middle part of September the Exhibitor wrote into the Board of Arbitration asking if the award could not be settled as per copy of his letter to the Exchange. The Secretary wrote to the defendant stating that it was not within the jurisdiction of the Board to alter any decision and suggested that he get in touch with the Exchange and see if some amicable adjustment could be made. A few days later we received a letter from the Exchange advising us to resume service as this account had given them play dates on their pictures. After this agreement had been made, the Exhibitor failed to live up to it and the Exchange again brought claim against him covering the same pictures which were involved in the original claim.

At our regular meeting yesterday there was some discussion as to whether or not this second claim could be heard inasmuch as the Exchange had not received the permission of the Board of Arbitration to settle this dispute contrary to the terms of the award.

We would appreciate hearing from you at your earliest convenience.

Very truly yours, The Joint Board of Arbitration.

—— ——, Secretary.

[fol. 2488] Ex. 65

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

February 10, 1927.

Miss N. Suckow, Secretary Joint Board of Arbitration, 205 Cleveland Film Exchange Bldg., Cleveland, Ohio.

Dear Miss Suckow: This supplements my letter of yesterday to Mrs. Moffett, on the subject of settlement of awards, and is in reply to your letter of February 8, 1927.

Since the award mentioned in your letter was not complied with under the terms of the settlement between the distributor and the exhibitor, it is not necessary to present the matter again to the board of Arbitration, but proceedings may be had for the enforcement of the original award, under the Rules and Regulations, as if no settlement had ever been agreed upon.

Yours very truly, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2489] Ex. 77

Copy

New York Film Board of Trade, 1560 Broadway, New York

July 18th, 1927.

My Dear Mr. Hess: I desire to call your attention to a case which I tried before the Joint Arbitration Board last week which involves an important principal.

A claim was filed by an exhibitor against Educational Films for damages for failure to deliver a picture contracted for. Educational's failure to deliver was caused by the delay of the exhibitor who previously exhibited this picture in returning same as required by the contract immediately following the last performance with the result that a "misout" resulted to the exhibitor who filed his claim.

I invoked the provisions of the contract which provide that in such case the exhibitor who had been damaged should proceed against the exhibitor who delayed in returning the print. This resulted in a three cornered pro-

ceeding in which both exhibitors and Educational Film were parties.

It was my contention that under the contract Educational having established that it was without fault in causing the "misout" it was not liable to the aggrieved exhibitor in any sum of money and that the award if any, should be rendered against the exhibitor who was at fault.

The arbitrators agreed with the soundness of this position because of the provisions of the contract but felt that if an award was rendered against such exhibitor in favor of the aggrieved exhibitor, the latter exhibitor would be unable to enforce his award.

To satisfy them that there was a means of enforcement, I urged that the failure of the exhibitor to satisfy such an award justified the distributors in demanding security as required by the contract just the same as when an award is rendered in favor of a distributor against an exhibitor. In other words, in the instant case, the failure of this exhibitor to satisfy the award resulted in a breach of contract which justified all distributors in demanding security and distributors are just as much interested in seeing such an award satisfied as if the award were rendered in favor of the distributor. The arbitration provisions of the contract, it seems to me, justify this position.

The arbitrators followed this view and rendered an award accordingly against the exhibitor who was at fault and exonerated Educational.

Are you in accord with these views?

Sincerely yours, (Signed) Louis Phillips, Atty. & Executive Secy. New York Film Board of Trade.

[fol. 2490] Ex. 77

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

July 21, 1927.

To Secretaries of all Film Boards of Trade:

Enclosed is a copy of a letter received from Mr. Louis Phillips, Secretary of the New York Film Board of Trade,

bearing date July 18, 1927, and a copy of my reply thereto with reference to that provision of the Standard Exhibition Contract which provides for the payment of damages to another exhibitor in case an exhibitor fails to forward or delays forwarding (as directed by the distributor) any print to such another exhibitor.

I recommend that you furnish to the members of your Board of Arbitration copies of these letters.

Sincerely yours, Gabriel Hess, General Attorney.

(2 Encl.)
H. D.

Read at Arbitration meeting of August 8. Copies furnished to Local Exhibition Assn.

[fol. 2491] Ex. 77

Copy

July 20, 1927.

Mr. Louis Phillips, Secy. New York Film Board of Trade, New York.

Dear Mr. Phillips: This is in reply to your letter of July 18, 1927.

I concur in your opinion that upon the failure of an exhibitor to comply with an award in favor of another exhibitor because of such exhibitor's failure or delay in forwarding a print of a picture (as directed by the distributor) to the other exhibitor, members of Rules and Regulations Relating to Arbitration to proceed to enforce such award as therein provided by demanding security for the performance of each of their respective existing contracts with the exhibitor against whom the award was made.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol. 2492] Ex. 69

March 14, 1928.

Mr. Gabriel L. Hess, General Attorney, Film Board of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: Tiffany-Stahl Productions, Inc., has a contract with Biggio Brothers, Grand Theatre, Steubenville, Ohio, dated November 24, 1926 which expired on

December 20, 1927—one year from the date of the first exhibition of any picture under that contract. Eight pictures were unplayed at the time of the expiration of the contract and the distributor set dates on seven of those pictures and shipped one picture in December which was refused. All of the play dates which were set by the exchange are now past and availability notices were sent to the exhibitor covering the eight pictures.

Following the refusal of the first shipment of those pictures the distributor filed a claim with the Board of Arbitration for $400.00—the rental of the eight unplayed pictures and was given an award in that amount. The exhibitor complied with the award and now all of the pictures are paid for and may be exhibited hereafter.

These pictures were sold for first run in Steubenville. The distributor now has an opportunity to re-sell these pictures in Steubenville and he is wondering whether he can give the next exhibitor the right to exhibit the picture before the Grand Theatre shows them. It is my opinion that since the distributor no longer has a contract with Biggio Brothers, he is relieved of the agreement not to violate any protection or "run" clause in the contract.

Please give us your opinion so that Mr. Goldman, Branch Manager, may be sure he is right before he makes a new contract. Should he set a date on the one picture which was not dated and should he try to get dates from the exhibitor before giving a starting date on the new contract; that would promote good-will even though it may be unnecessary.

Very truly yours, —— ——, Secretary.

[fol. 2493] Ex. 70

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

March 16, 1928.

Mrs. G. D. Moffett, Secy. Cleveland Film Board of Trade, Cleveland, Ohio.

Dear Mrs. Moffett: This is in reply to your letter of March 14, 1928 concerning the Tiffany-Stahl contract with Riggio Brothers, Grand Theatre, Steubenville, Ohio.

While the exhibitors who contracted for a first run in Steubenville breached their contract, evidenced by the award against them and their compliance therewith, they still have an interest in the pictures because of the privilege granted them under the award to exhibit them after compliance with the award. This privilege may fairly be construed to include the continuing right to a first run of the pictures. Furthermore, the resale of the pictures in the same locality for first run may make it incumbent upon the distributor to credit Riggio Brothers with the amount received on such account.

Accordingly, I suggest that the distributor make every effort to have Riggio Brothers exercise their privilege to show the pictures first run, thus placing the distributor in the position where he can sell a subsequent run. If after reasonable efforts along these lines have been made Riggio Brothers do not avail themselves of their privilege to show the pictures first run, the distributor may then contract for their exhibition, disregarding the privilege granted Riggio Brothers under the award.

In this connection, a careful record should be made to show clearly that every effort was made to enable Riggio Brothers to exhibit the pictures first run, failing which a [fol. 2494] contract for their exhibition was made with another exhibitor, because of Riggio Brothers' waiver of the privilege granted them under the award. In such other contract, I also suggest that no mention of run be made.

Sincerely yours, Gabriel L. Hess, General Attorney.

H. D.

[fol. 2495] Ex. 71

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

March 24, 1928.

Mrs. G. D. Moffett, Secretary Cleveland Film Board of Trade, Film Exchange Building, 2100 Payne Avenue, Cleveland, Ohio.

Dear Mrs. Moffett: This is in reply to your letter of March 23rd, 1928.

It is difficult for me to believe that the Senate Committee or a member of the Committee stated during the hearings on the Brookhart Bill that claims involving N. S. F. checks for payment of film rentals for pictures shipped upon account should not be heard by the board of Arbitration.

The failure of an exhibitor to pay the Film rental specified in a contract of a picture contracted for, whether such picture is shipped upon open account or not, is a clear and unequivocal breach of contract. In fact if breaches of contract should be classified, in my opinion the failure to pay should be classified as the highest degree of breach.

Such breach of contract having occurred it gives rise to a claim or controversy which the distributor is bound under the terms of the Arbitration Clause to submit to Arbitration.

[fol. 2496] Accordingly the Board of Arbitration is obligated to hear such claim or controversy and if the evidence discloses that an exhibitor has failed to pay for a picture contracted for which has been shipped on open account the Board of Arbitration is obliged to make an award of the amount due in favor of the distributor.

While the Standard Exhibition Contract provides for the payment of the rental of a picture three days in advance of shipment there is nothing in the contract which prohibits a distributor from extending credit to an exhibitor and making shipments on open account.

The foregoing likewise applies to N. S. F. checks.

If the exhibitor representatives upon your Board of Arbitration refuse to hear this class of cases I recommend that they be submitted to the Board of Arbitration made up of distributor representatives and exhibitor representatives who are not members of your local exhibitor organization.

Sincerely yours, Gabriel L. Hess, General Attorney.

19:18.

[fol. 2497] Exh. 201, P. W., 10/4/28

June 7, 1926.

Mr. Louis H. Flinn, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Flinn: Your wire received and will endeavor to give you an accurate report on the Ottumwa, Iowa situation.

On March 26, 1926 Producers Dist. Corp. of Des Moines filed a complaint against the Circle Amusement Co. Ottumwa, Iowa. On same day I mailed to said company the first notice relative the complaint and on April 1st I received a reply from Mr. Dwight B. Baker under date of March 31st, copy of which I am attaching hereto.

You will note in his letter that he asks the privilege of prorating his dates; but this request was refused by the Board due to a recent ruling sent out by Home Office, that we could not prorate any more dates. Therefore on April 2nd, Mr. Baker was mailed a second notice stating the date and time which this case would be given a hearing. Mr. Baker's reply to same was: "My letter earlier in the week is my only answer and solution to this situation—I will not be up—Baker."

On April 12th we mailed a letter to Mr. Baker stating the award, copy of which I am enclosing. You will note that he was given fourteen days to abide by the award. At the end of fourteen days, deposit letters were requested but were held up, due to the fact that a sale was pending between the Circle Amusement Co. and Mr. Jake Cohen, Manager Strand Theatre, Ottumwa, Iowa, for the Circle Theatre only; so the award still held good on the Square Theatre.

On May 26th we mailed out the deposit letters and service was to be suspended on June 2nd. Now here is where the upset is—Producers contract is made out as follows: Circle Amusement Company for the Circle and Square Theatre, Ottumwa, Iowa. Signed Circle Amusement Company by D. B. Baker, Manager.

[fol. 2498] Mr. Baker has written Vitagraph and Fox of Omaha that if they would not serve him on their contracts that he would start legal procedure; as he claims their contracts are made out to D. B. Baker and does not mention anything about the Circle Amusement Company.

Mr. Baker claims that he owns the Square Theatre and that the Circle Amusement Company did not have anything connected with same. If that be the case, why did he sign a contract with Producers for the Square Theatre and sign the name of Circle Amusement Company by D. B. Baker, Manager.

You will note in the award rendered by our Arbitration Board that same covers the Square Theatre; so therefore our Board cannot see where Mr. Baker has any grounds for legal procedure. Our Board feels that whether the contracts read Circle Amusement Company or D. B. Baker that Mr. Baker is liable. Mr. Baker played some of these pictures at the Square Theatre.

It is also the understanding of several members of this Board that the Circle Amusement Company bought and paid for the equipment and etc. for the Square Theatre.

It is Omaha's opinion that no letters should have been mailed to Mr. Baker as the award was against the Circle Amusement Company. Our Board says "Yes" due to the fact that the contract reads for the Square and Circle and signed as D. B. Baker Manager of the Circle Amusement Company.

A recent ruling sent out by Mr. Gabriel Hess states that if an exhibitor plays any of the pictures in his theatre that he is liable for the balance of the contract; therefore this ruling alone would hold Mr. Baker liable.

Now we are demanding that service be suspended on the Square Theatre and cannot see why Fox and Vitagraph should not abide by same.

I listed same on my Bulletin on April 23rd as follows: —"Ottumwa, Iowa Circle Amuse. (D. B. Baker) (Producers) etc." Omaha claim that same was not listed cor- [fol. 2499] rectly or Vitagraph would have never mailed a security letter out to D. B. Baker. My Board cannot see where I made an error due to the fact how contract was made out.

I am sure Mr. Flinn I have given you all the information but if you feel that I have left anything out, kindly let me know and I will indeed try to grant your request.

Will thank you kindly for an immediate reply on same.

Best regards, I am

Yours very truly, Des Moines Film Board of Trade,

—— ——, Secretary.

MB.

[fols. 2500 & 2501] Western Union

Newcomb Carlton, President. J. C. Willever, First Vice-president

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

1926, Jun. 11, P.M. 5:53.

perty Bldg., 6th & Grand Sts., Des Moines, Iowa.

NA304 18 Nite UD New York N Y 11.

Miss M. Benjamin:

Des Moines Film Board of Trade 210 Iowa Bldg Des Moines Iowa proof furnished this office relative Ottumwa Iowa situation deemed sufficient to warrant Fox and Vitagraph to continue service.

Louis H. Flinn.

Exh. 204, p.w., 10/4/28.

[fol. 2502] Copy

Miss Clare Foley, Sec., Omaha Film Board of Trade, 1508 Davenport St., Omaha, Nebr.

Dear Miss Foley: This is in reply to your letter of February 6th, 1926 concerning individuals or exchanges represented by individuals who still continue to use the Uniform Contract after their membership in your Film Board of Trade has terminated.

Any person, firm or corporation engaged in the business of distributing motion pictures may use the Uniform Contract irrespective of whether or not such person, firm or corporation is a member of the Film Board of Trade.

Boards of Arbitration should hear and determine such controversies as may be submitted to them by the parties to a contract containing the arbitration clause of the Uniform Contract irrespective of whether or not the distributor is a member of your Film Board of Trade.

In case the distributor is not a member of your Board the remaining members of your Board are of course not obligated to comply with the by-laws relating to arbitration to enforce any award that may be made in favor of such dis-

tributor. In such cases the distributor is left to his remedy for the enforcement of his award in the courts.

Very truly yours, (Signed) Gabriel L. Hess, General Attorney.

136.

Exhibit #241, P.W. 10/4/28.

[fol. 2503] Omaha Film Board of Trade, Film Exchange Building, 1508 Davenport Street, Omaha Neb. Telephone Atlantic 4101

Office of Secretary, Clare Foley

February 26th, 1927.

Miss M. Benjamin, Secretary, Des Moines Film Board of Trade, Des Moines, Ia.

Dear Miss Benjamin: With further reference to the Ottumwa, Iowa, situation. I have information that Producers are serving this theatre with a $250.00 deposit and that they are serving more pictures than the contract calls for, which is not according to the rules.

Mr. Flinn very definitely explained when he was here, as well as Mr. Pettijohn sometime ago, that when an exhibitor puts up a security on account of an arbitration award they are not to serve any more pictures than the contract playing arrangement. If the contract calls for two pictures per month then they could not serve more than two per month.

Please take this up with Producers and advise by return mail.

Yours very truly, Omaha Film Board of Trade. Clare Foley, Secretary.

119.

CF:RF.

Exhibit #216, P.W. 10/4/28.

[fol. 2504] Exhibit #62

88.

October 16, 1928.

Mr. Gabriel L. Hess, General Attorney Film Boards of Trade, 469 Fifth Avenue, New York City.

Dear Mr. Hess: The Board of Arbitration rendered an award in favor of United Artists Corporation yesterday on

their claim vs. Irving Tamler, Tuxedo Theatre, Indianapolis, on the "bicycling" of "The Gaucho." On account of the length of time consumed in the presentation of this claim, the hearing of the claim on "The Circus" had to be postponed until next week.

The award was in the amount of $100.00—$50.00 damages, $25.00 rental, and $25.00 to cover investigation and presentation of the claim. Should this entire amount be turned over to the Copyright Protection Bureau or should the amount allowed for investigation be paid to Mr. Harrison direct? The total amount was payable within ten days and it is my understanding that any extension of the time allowed for payment or any arrangement for payment by instalments must be approved by your office. Is this correct?

Very truly yours, Indianapolis Film Board of Trade.
—— ——, Secretary.

[fols. 2505 & 2506] Exhibit #63

59

Copyright Protection Bureau, Representing National and Regional Distributors of Motion Pictures in the United States, 469 Fifth Avenue, New York City

October 18, 1928.

Miss M. M. McCollough, Secretary Indianpaolis Film Board of Trade, Indianapolis, Indiana.

Dear Miss McCollough: This is to acknowledge the receipt of your letter of October 16, 1928 in which you advise that the Board of Arbitration on October 13, 1928 rendered an award for $100.00 in favor of United Artists Corporation on their claim against Irving Tamler, Tuxedo Theatre, Indianapolis for the bicycling of "The Gaucho."

I note that the hearing of the claim on "The Circus" had to be postponed until the following week because of the length of time consumed in the presentation of the claim involving "The Gaucho."

The entire amount of the award should be turned over to the Copyright Protection Bureau. I note that the amount

is payable within ten days. If any request for an extension of time to pay is made, it should be submitted to this office for approval.

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

31:18.

[fols. 2507 & 2508] Western Union

Newcomb Carlton, President. J. C. Willever, First Vice-President

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

October 24, 1928.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 Fifth Avenue, New York City:

Tamler requests privilege paying United Artists bicycling award seven fifty weekly please advise.

M. M. McCollough.

Chg. Indpls. Film Board of Trade.

[fols. 2509 & 2510] Exhibit #66

Western Union

Newcomb Carlton, President. J. C. Willever, First Vice-President

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

Received at RM. 115 Chamber of Commerce Bldg., Indianapolis, Ind. Phone MA 4860 Sta. 4

7 OXD ELS.

F E New York NY 1219 P Oct 24 1928.

M. M. McCollough:

Indianapolis Film Board of Trade 312 Chamber of Comm Tamlers offer not acceptable will accept ten dollars weekly.

Gabriel L. Hess. 11:53 A.

[fol. 2511] Exb. 127, P.W., 5/19/28

February 27, 1926.

Mr. Gabriel L. Hess, General Attorney Film Boards of Trade, 469 Fifth Avenue, New York City.

Dear Mr. Hess: There has been considerable discussion recently among our members on the following question:

If there is an arbitration award against an exhibitor and in order to avoid complying with this award he transfers or sells his theatre, are the exchanges entitled to refuse to transfer contracts to the new owner unless they receive the security demanded under the arbitration award against the former owner?

Our members understand, of course, that under the rules and regulations of the Credit Committee, the new owner may be required to put up security for new service which he may purchase, but this refers to the transfer of contracts with the former owner. It seems to be understood by exhibitors that,—in order to avoid complying with an award, they can transfer their theatre and all contracts with the exception of the contracts with the exchange holding the award.

Very truly yours, Kansas City Film Board of Trade.
—— ——, Secretary

[fol. 2512] Exb. 128, P.W., 5/19/28

Film Board of Trade, 469 Fifth Ave., New York

March 4, 1928.

Miss M. McCullough, Secretary Kansas City Film Board of Trade, Kansas City, Missouri.

Dear Miss McCollough: If an award has been made against an exhibitor and to avoid complying with such an award the exhibitor transfers or sells his theatre all distributors with whom such exhibitor had entered into contracts may not refuse to recognize any assignment of such contracts to the new owner provided the new owner in writing accepted such assignment because of the provisions of the Uniform Contract permitting assignment when made and accepted.

By the acceptance of the assignment the new owner is in no better position than the prior owner and while he is entitled to all the benefits which he may derive from such contracts he may not divest himself of any liabilities or obligations thereunder. The previous owner by his agreement obligates himself to comply with any award made by the Board of Arbitration and such award having been made the assignee may not avoid such obligation any more than he could avoid the obligation to pay the rental price of the pictures.

Accordingly distributors who have made a demand for security for performance of their contracts by the prior owner because of such prior owner's failure to comply with an award of the Board of Arbitration may before making any deliveries of pictures to the new owner who has accepted an assignment of such contracts require the new owner to comply with a demand for security for the performance of such contracts upon giving notice of such demand to the new owner.

It is obvious if this were not so an exhibitor by the sale or transfer of his theatre would find it easy to escape his legal obligations.

This applies to contracts with distributors not having an award in their favor as well as contracts with distributors in whose favor an award has been made.

Very truly yours, Gabriel L. Hess, General Attorney.

[fol. 2513] Exb. 126, P.W., 5/19/28

April 8, 1926.

Mr. Gabriel L. Hess, General Attorney Film Boards of Trade, 469 Fifth Ave, New York City, New York.

Dear Mr. Hess: In the process of enforcing a recent arbitration award against the Landers-Orpheum Theatre, Springfield, Missouri, security was requested also on contracts with the Orpheum Theatre at Joplin, Missouri, which were signed by the same exhibitor, Ensley Barbour.

A couple of days before the award became effective, Mr. Barbour notified one of our members that he would endeavor to collect damages from any one who suspended service for the Orpheum Theatre at Joplin, Missouri, inas-

much as this theatre was owned by the Tri-State Amusement Company, an Oklahoma Corporation, and he was acting simply in the capacity of manager.

A check of the contracts held by various exchanges revealed the fact that with one exception all contracts were signed Orpheum Theatre, Ensley Barbour. One exchange had a contract signed Tri-State Amusement Company by Ensley Barbour.

Mr. Barbour complied with the award of the Arbitration Board before it became necessary to suspend service but, for the information of our members, I would like to know whether the exchanges would have been entitled to suspend service on the Joplin contracts until such time as Mr. Barbour furnished us with records showing that the theatre was owned by the Tri-State Amusement Company.

Very truly yours, Kansas City Film Board of Trade.
—— ——, Secretary.

[fol. 2514] Exb. 125, P.W., 5/19/28

Film Board of Trade, 469 Fifth Ave., New York

May 10, 1926.

Miss M. M. McCollough, Secretary Kansas City Film Board of Trade, Kansas City, Missouri.

Dear Miss McCollough: This is to acknowledge receipt of your letter of April 8, 1926.

An award when made against an exhibitor is not an award against his theatre. Therefore if the exhibitor fails to comply with the award distributors may require security for the performance of all existing contracts with such exhibitor irrespective of the theatres owned or operated by such exhibitor and which may be specified in such contracts.

If the exhibitor claims that any of the theatres managed by him are owned by a corporation as in the case cited by you sufficient evidence of the falsity of such claim should be had before distributors demand security for the performance of contracts for the exhibition of pictures at the theatres claimed to be owned by the corporation.

The fact that some of the contracts were signed in the name of the corporation and others by the exhibitor in

person is but an element of the proof that the theatre though claimed to be owned by the corporation is owned by the exhibitor. This proof of course may be rebutted by the exhibitor's claim with respect to the contracts signed by him in person that he was acting only as agent of the corporation.

[fol. 2515] In this connection your members should exercise care when contracts are executed by exhibitors to the end that if they are contracting with a corporation a proper corporate signature is obtained.

For example all of the Tri-State Amusement Contracts should have signed by the Tri-State Amusement Company by Ensley Barber, whose signature should have been followed by his corporate title, such as President, General Manager or Treasurer as the case may be.

Very truly yours, (Signed) Gabriel L. Hess, General Attorney.

[fol. 2516] Exb. 5, F.W., /5-19/28

Film Boards of Trade, 469 Fifth Avenue, New York

Subject: ——.

Oct. 31,1927.

To all presidents of all film boards of trade:

The increasing number of violations of the Rules and Regulations Relating to Arbitration, Credit Committee Rules, and other rules and regulations and by-laws of the Film Boards of Trade, resulting in many complaints to this office and the home offices of the distributors represented in the membership of Film Boards of Trade prompted several of the General Sales Managers to suggest a meeting to discuss ways and means to prevent in the future, further violations of such rules and regulations and by-laws.

Accordingly, at a meeting of the General Sales Managers at this office held on October 28th and at their request, resolutions were prepared and agreed upon for adoption by all of the Film Boards of Trade throughout the United States.

Please, therefore, present at the next meeting of your Film Board of Trade and move for their adoption the resolutions enclosed herewith to take effect as of the date of their

adoption in respect to all violations occuring after such date.

Immediately upon receipt of this letter please inform me the date of the next meeting at which these resolutions will be presented, and also immediately after such meeting, the action taken thereon.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol 2517] Exb. 5A, P.W., 5/19/28

October 31, 1927.

Resolved that any member of this Film Board of Trade who shall violate any of the rules or regulations relating to Arbitration, or any of the rules or regulations with respect to the establishment and operations of the Credit Committee, or any other rule or regulation or by-law of this Film Board of Trade, shall, for a first offense be fined the sum of $50.00; for a second offense the sum of $100., payable by the home office of the Distributor represented by *such member; and for a third offense such member shall be* expelled from membership, and shall not be eligible for membership in any other Film Board of Trade.

Any such member shall be entitled prior to being fined or being expelled to receive notice in writing of the violation complained of, which notice shall contain, a plain and concise statement of the facts upon which the charge of violating any rule, regulation or by-law is based and shall specify the time and place for a hearing thereon.

After such hearing the members of the Film Board of Trade by a majority vote shall determine whether or not the charges against such member have been sustained, and if sustained, such member shall be fined or expelled as hereinabove provided.

Within three days after such hearing a copy of the charges and of any written statement which such member elects to make in answer thereto, or in the absence of such written statement, a written statement by the Secretary of this Film Board of Trade of all the facts presented at such hearing, together with a statement of the action taken by the members in respect to such charges, shall be sent to the office of the Film Boards of Trade in the City of New York. Any fine or expulsion shall not become effective until fifteen

days after the written approval of the action taken by the members of this Film Board of Trade by the New York office of the Film Boards of Trade; and it is further

Resolved, that all rules, regulations, and by-laws of this Film Board of Trade shall be binding upon all persons employed in the office of any member thereof, and every member of this Film Board of Trade shall be subject to the fines and to expulsion herein provided for, if a charge of violating any such rule, regulation or by-law shall be made and sustained against any person employed in the office of such member; and it is further

Resolved, that if any rule, regulation, or by-law of this Film Board of Trade is in conflict with these resolutions such rule, regulation, or by-law shall be deemed repealed so as to give full force and effect to these resolutions.

[fol. 2518] Resolved that upon the failure of any resident member of this Film Board of Trade to promptly attend any regular or special meeting of the members thereof of which notice has been given to the members unless for good and sufficient reasons acceptable to a majority of the members of this Film Board of Trade such member shall be fined the sum of $2.00, and it is further.

Resolved that if any resident member of this Film Board of Trade who shall have been appointed to act as a distributor representative on the Board of Arbitration shall fail to promptly attend any scheduled meeting of such Board of Arbitration unless for good and sufficient reasons acceptable to a majority of the members of this Film Board of Trade such member shall be fined the sum of $10.00, and it is further

Resolved that if any resident member of this Film Board of Trade shall attend any regular or special meeting thereof, or if he be a distributor representative upon the Board of Arbitration shall attend any scheduled meeting of such Board of Arbitration later than fifteen minutes after the time scheduled for the holding of any such meeting, such member shall be fined one-half of the respective amounts in these resolutions specified, and it is further

Resolved that any rule, regulation or by-law in conflict with these resolutions shall be and the same is hereby repealed.

[fol. 2519] Exb. 6, P.W., 5/19/28

Kansas City Film Board of Trade,
1717-19 Wyandotte Street, Kansas City, Missouri

November 29, 1927.

To the members Kansas City Film Board of Trade.

GENTLEMEN: Enclosed find copies of the two Resolutions recently adopted at our Film Board Meetings, which we will ask you to place on file, for reference.

We are sending you a sufficient supply of one of the Resolutions adopted, in order that you may furnish each of your Salesmen with a copy.

Very truly yours, Kansas City Film Board of Trade.
A. L. Menagh, Secretary.

[fol. 2520] Exb. 7, P.W., 5/19/28

Resolution #1—Adopted November 12th, 1927

Resolved that any member of this Film Board of Trade who shall violate any of the rules or regulations relating to Arbitration, or any of the rules or regulations with respect to the establishment and operations of the Credit Committee, or any other rule or regulation or by-law of this Film Board of Trade, shall for a first offense be fined the sum of $50.00; for a second offense the sum of $100.00, payable by the Home Office of the Distributor represented by such member; and for a third offense such member shall be expelled from membership, and shall not be eligible for membership in any other Film Board of Trade.

Any such member shall be entitled prior to being fined or being expelled to receive notice in writing of the violation complained of, which notice shall contain, a plain and concise statement of the facts upon which the charge of violating any rule, regulation or by-law is based and shall specify the time and place for a hearing thereon.

After such hearing the members of the Film Board of Trade by a majority vote shall determine whether or not the charges against such member shall have been sustained, and if sustained, such member shall be fined or expelled as hereinabove provided.

Within three days after such hearing a copy of the charges and of any written statement which such member elects to make in answer thereto, or in the absence of such written statement, a written statement by the Secretary of this Film Board of Trade of all the facts presented at such hearing, together with a statement of the action taken by the members in respect to such charges, shall be sent to the office of the Film Boards of Trade in the City of New York. Any fine or expulsion shall not become effective until fifteen days after the written approval of the action taken by the members of this Film Board of Trade by the New York office of the Film Boards of Trade; and it is further

Resolved, that all rules, regulations, and by-laws of this Film Board of Trade shall be binding upon all persons employed in the office of any member thereof, and every member of this Film Board of Trade shall be subject to the fines and to expulsion herein provided for, if a charge of violating any such rule, regulation or by-law shall be made and sustained against any person employed in the office of such member; and it is further

Resolved, that if any rule, regulation, or by-law of this Film Board of Trade is in conflict with these resolutions such rule, regulation, or by-law shall be deemed repealed so as to give full force and effect to these resolutions.

[fol. 2521] Exb. 8, P.W., 5/19/28

Resolution — Adopted November 28th, 1927

Resolved that upon the failure of any resident member of this Film Board of Trade to promptly attend any regular or special meeting of the members thereof of which notice has been given to the members unless for good and sufficient reasons acceptable to a majority of the members of this Film Board of Trade such member shall be fined the sum of $2.00, and it is further

Resolved that if any resident member of this Film Board of Trade who shall have been appointed to act as a distributor representative on the Board of Arbitration shall fail to promptly attend any scheduled meeting of such Board of Arbitration unless for good and sufficient reasons acceptable to a majority of the members of this Film Board of

Trade such member shall be fined the sum of $10.00, and it is further

Resolved that if any resident member of this Film Board of Trade shall attend any regular or special meeting thereof, or if he be a distributor representative upon the Board of Arbitration shall attend any scheduled meeting of such Board of Arbitration later than fifteen minutes after the time scheduled for the holding of any such meeting, such member shall be fined one-half of the respective amounts in these resolutions specified, and it is further

Resolved that any rule, regulation or by-law in conflict with these resolutions shall be and the same is hereby repealed.

[fol. 2522] Ex. 43, P. W., 5/19/28

Film Boards of Trade, 469 Fifth Ave., New York

June 9, 1927.

Subject: ——

To the Secretaries of all Film Boards of Trade:

Enclosed you will find drafts of two form letters, #1—a demand for Security—and #2—a Notice of Suspension of Service, to be used by your members in the future when making demands for security because of the failure or refusal of an exhibitor to comply with an award made by your Board of Arbitration and when notifying such exhibitor of the suspension of service because of the refusal or failure to comply with such demand.

Please ask your members to discontinue the use of any other forms heretofore used by them, and to adopt these instead.

If it has been the practice of your Board to require members to deliver demands for security and notices discontinuing service to the Secretary of the Board to insure the sending of such letters, please explain to your members that we believe such practice should be immediately discontinued because it undoubtedly was founded on a lack of confidence which the members had in each other. We feel that now such lack of confidence is no longer warranted, and that therefore the practice of having the members send out their own letters should be inaugurated.

Members will be depended upon to promptly comply with the advices of the Secretary of the Board given under the Rules to demand security for the enforcement of the decisions of the Board of Arbitration, and upon the failure of the exhibitor to comply with such demand within the seven day period fixed under the Rules, to immediately send the second notice suspending service, and to actually suspend service.

Sincerely yours, Gabriel L. Hess, General Attorney.

(2 Enclosures.)

[fol. 2523] Exb. 43A, P. W., 5/19/28

Kansas City Film Board of Trade, 1717-19 Wyandotte Street, Kansas City, Missouri

June 28, 1927.

To all members K. C. Film Board of Trade (for your confidential information):

Gentlemen: Enclosed you will find drafts of two Form letters:

#1—A Demand for Security.
#2—A Notice of Suspension of Service.

which Forms are to be used by you in the future, when making Demands for Security because of the failure or refusal of an Exhibitor to comply with an Award made by our Board of Arbitration, and when notifying such Exhibitor of the suspension of service because of the refusal or failure to comply with such demands.

These have been made up and forwarded to us by the New York Office of the Film Boards of Trade with the request that you discontinue the use of any other forms heretofore used, and adopt these instead.

In the past, you have allowed the Exhibitor seven days to put up Security, and then have given him another seven days' notice that you were going to suspend service. From now on, service is to be suspended within ten days after the date of the first demand letter. In other words, you will allow the Exhibitor seven days to place with you his Security. If he does not do so, then you will send the Second

notice suspending service, and actually suspend service at once. Time must be allowed for the exhibitor to receive the second letter, but this should not take over three days.

Send your letters to this Office to be mailed, as usual, only please see that they are here on Mondays, instead of Tuesdays after this.

If the above is not entirely clear to you, I will appreciate your calling this Office and I will be glad to explain more fully.

Very truly yours, Kansas City Film Board of Trade.
—— ——, Secretary.

[fol. 2524] Exh. 130, P. W., 5/19/28

January 14, 1928.

Mr. Gabriel L. Hess, Film Boards of Trade, New York City.

Dear Mr. Hess: Enclosed find one of my Dockets for Cases to be heard by the members of the Arbitration Board, Monday, January 16th.

If I was an Exhibitor Member of the Board, you couldn't hire me to come up here and sit and hear the majority of these Cases—let alone, do it for nothing, and I believe something is going to have to be done, or they will refuse to sit. They kick plenty as it is.

We had our last meeting on January 3rd, so you see we haven't been saving the claims up just to have one Meeting and get all of the Cases taken care of at once.

If the majority of these claims amounted to anything I would not object, but this is what we are up against. The Exchanges say that before they can cancel out or dispose of their Contracts, where theatres are sold or closed, that their Home Offices require that they first submit the contracts to the Arbitration Board, and get an award on them. Is this necessary?

On hurriedly going over the cases for Monday, I wish to submit the following information:

1. There are already in existence from one to six awards against eight of the exhibitors listed on the docket.
2. There are twelve cases where the theatre is sold.
3. There are eleven closed theatre claims.

4. On sending out Registered Notices, for the Hearing, the letters have been returned from seven, which means that the Exhibitor is gone, and gone for good.

5. I have thirty-one cases pending, besides these forty-seven scheduled for Monday.

[fol. 2525] What I am driving at, is this: Where one Exchange files a claim against an Exhibitor, and an award is secured, so that the Exhibitor can go on record as "bad," is there any way to avoid six or seven other Exchanges filing claims against this same man, even though they do have contracts with him? As far as we are concerned, one award is all that is necessary to hold the man. If the Exchanges took any action on the awards after they secured them, that would be different, but they then proceed to cancel their contracts.

You can readily see the amount of work involved—not to mention what a joke it becomes to the Arbitration Board. The Exhibitor Members now say that the Arbitration Board is nothing but a clearing house, in order that the Exchanges may get rid of their contracts, and I do not think that is the purpose of the Arbitration Board.

If you can work out a solution to this problem I would be glad to hear from you.

Last year when we received a copy of the Annual Arbitration Report, and discovered we ranked third in the U. S. for the number of claims considered by the Arbitration Board, the Members of the Film Board were ashamed, and resolved they would cut down the number, but they are worse than ever, as you will notice by this year's report. We haven't the largest territory by any means, and I can't understand why we have so many claims.

Very truly yours, Kansas City Film Board of Trade.
—— ——, Secretary.

[fol. 2526] Exh. 131, P. W., 5/19/28

Film Boards of Trade, 469 Fifth Ave., New York

January 17, 1928.

Miss A. L. Menagh, Secy. Kansas City Film Board of Trade, Kansas City, Mo.

DEAR MISS MENAGH: This is in reply to your letter of January 14, 1928 concerning your docket of cases scheduled

to be heard by the members of the Board of Arbitration January 16th.

It seems to me you have an erroneous conception of the obligations of the parties to a Standard Exhibition Contract in respect to arbitration. In such contract it is clearly provided that before either of them shall resort to any court to determine, enforce, or protect their legal rights they shall submit all claims and controveries for determination to the Board of Arbitration. Such provision makes it requisite, before any attempt is made by either party to enforce their rights by appropriate court proceedings, to submit to arbitration, and the fact that other awards have been made against an exhibitor, or that his theatre has been sold or closed in no wise alter such obligation of the distributor to proceed first to arbitration.

It is ill advised of you to take any position in respect to the character of the claims filed or to the home office policy of distributors requiring that before they will permit their branch manager to consider a contract inactive or unenforceable that an award should first be obtained thereon. Your duties are administrative, and not judicial. Other Boards of Arbitration have as many cases as are submitted to your Board of Arbitration; in fact, in many instances, the number of cases heard and considered by other Boards of Arbitration far exceeds the number heard by your Board, and the Secretaries of these Boards make no complaint about the amount of work involved.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol. 2527] 656

July 26, 1928.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 Fifth Avenue, New York City.

Dear Mr. Hess: When an exhibitor has failed to comply with an arbitration award and has been placed on cash deposit, may a distributor who has withheld service for this period, later file a claim for payment of the pictures which the exhibitor is delinquent on due to his failure to

either comply with the arbitration award, or furnish security?

Your advice would be greatly appreciated.

Yours very truly, New Haven Film Board of Trade.

—— ——, Secretary.

KTS.

[fol. 2528] 657

Film Boards of Trade, 469 Fifth Avenue, New York.

(Cities listed)

July 27, 1928.

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

Miss K. T. Sullivan, Secretary New Haven Film Board of Trade, New Haven, Conn.

DEAR MISS SULLIVAN: This is in reply to your letter of July 26, 1928.

If, because of an exhibitor's failure or refusal to comply with an award a distributor who has demanded security for the performance of an existing contract and has suspended service thereunder because of the refusal of the exhibitor to comply with such demand and service has been so suspended for ten days, such distributor may at its option cancel the contract.

Under such circumstances the distributor is not in a position to claim payment for the pictures the delivery of which was suspended because of the exhibitor's failure to meet the distributor's demand for security.

If upon compliance with the award by the exhibitor or the deposit of security demanded by the distributor, the distributor resumes service under its contract the exhibitor is then obligated to fully carry out and perform such contract as though service had not been suspended.

Sincerely yours, Gabriel L. Hess.

19:18.

[fol. 2529] 653

May 1st, 1928.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 Fifth Ave., New York City.

Dear Mr. Hess: Several of the exhibitor members of the Board of Arbitration today questioned our practice of signing awards after a hearing in a default case. That is, in a case where the plaintiff appears with his records ready to give testimony, but the defendant, although duly notified, does not appear. They feel that they are incurring a personal liability if they render an award and sign the official slip.

I realize that you very fully explained this procedure to us at our last convention, and I have carefully read the minutes of that Convention. However, Mr. Levy brings out the point that the New York Film Board of Trade has refused to hear any default cases.

Will you kindly advise me if there has been any change in the procedure as regards default cases since the Convention?

Thanking you for an early reply, I am

Yours very truly, New Haven Film Board of Trade,

—— ——, Secretary.

KTS.

[fol. 2530] 654

July 17, 1928.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 Fifth Ave., New York City.

Dear Mr. Hess: As you have been previously advised the exhibitor organization in this territory refuses to arbitrate default cases, and following your instructions we have simply noted the default, and all records marked accordingly.

At the last meeting of the Arbitration Board, three cases were so noted, and we are now sending out the security letters on same. I have instructed my members to change the first paragraph of the letter to read "Because of your failure to appear to arbitrate in the controversy between

you and —— etc. etc.,'' and have ended the letter after the word ''security'' in the last paragraph.

Please advise me if you have any form letter which you are using in these particular cases, or if the letter as I have changed it is correct.

Thanking you, I am

Yours very truly, New Haven Film Board of Trade.

—— ——, Secretary.

[fol. 2531] 655

Film Boards of Trade, 469 Fifth Avenue, New York

No. H-22

Subject: ——.

September 5, 1928.

All secretaries of all boards of arbitration (including Canada):

I have been informed that it is the practice of some Boards of Arbitration to make awards in favor of distributors in cases where exhibitors fail to appear before the Board of Arbitration upon the day fixed for hearing, without requiring the distributors to submit any testimony in support of the distributor's claim.

If this is the practice of your Board of Arbitration it should be immediately discontinued.

Upon the default in appearance before the Board of Arbitration of either of the parties to a controversy submitted for arbitration a note of such default should be stamped upon the papers in all cases, using the form to make such note given you at our Los Angeles meeting.

If after you have noted such default the complaining party who has appeared before the Board desires to have the Board make an award, and the Board is willing to make an award in default of the appearance of the other party, then such complaining party should be required to and must submit to the Board proof of the claim made. Upon failure on the part of the complaining party to make proof of such claim or the refusal of the Board of Arbitration to make

an award because of the non-appearance of one of the parties no award should be made.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol. 2532] Ex. 8

January 26, 1928.

Mr. Gabriel L. Hess, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: Please find attached hereto, for your information, copy of letter today written to Mr. Levin.

This case was first brought before our Credit Committee on Monday last, and they did not feel justified in establishing credit for an exhibitor whom they knew was bicycling, in spite of the fact that he furnished proper credit information.

As you will note from my letter, this theatre was purchased by Mr. Gibson in Septemebr of 1927 but he failed to furnish proper information to the Credit Committee until last week.

Sincerely yours, —— ——, Secretary.

[fol. 2533] Ex. 9

Dear Mr. Levin: Please be advised that we have two claims of bicycling filed against Mr. H. B. Gibson, Burnsville Theatre, Burnsville, W. Va., as follows:

One claim is filed by Metro Goldwyn Corporation and to substantiate the claim we have an affidavit from four persons to the effect that they saw five Metro features at the Davis theatre, operated by Mr. Gibson at Adrian. These pictures were all under contract at the exhibitor's theatre at Burnsville but none were under contract at Adrian.

The other claim is filed by the Fox Film Corporation and as evidence they have the statement in writing of their salesman that the exhibitor admitted playing at his theatre in Adrian all pictures which he had under contract at Burnsville.

The circumstances of this claim are as follows:

In September of 1927 Mr. Gibson purchased the Davis theatre, Adrian, W. Va. and the transfer was handled by the Cincinnati Credit Committee. The exhibitor failed to establish satisfactory credit and a deposit of C. I. R. $500 was placed against him.

Last week the account was transferred to this Board for determination by our Credit Committee and upon investigating we found that the exhibitor had assumed no contracts and was using all product booked for use in his theatre at Burnsville at his theatre at Adrian.

There is no newspaper in Adrian and we are unable to get any response from the Western Union there. However, a salesman for Metro has positive knowledge that Fox' pictures were used at Adrian, and as stated above, we have the affidavits that the Metro product played there.

It was our thought to notify the exhibitor to appear before the bicycling committee during the coming week. No doubt by delaying for a couple of weeks we could obtain information concerning other pictures which are being or have been bicycled, but due to the fact that credit has not been established at the theatre in Adrian and the exhibitor has now furnished the proper credit information, we should like to dispose of the matter as soon as possible.

If the exhibitor refuses or fails to meet with the Bicycling Committee a claim will be filed against him for determination by the Board of Arbitration. In that event, we will obtain affidavits of people who saw the Fox or other pictures played in Adrian as definite evidence.

[fol. 2534] Ex. 10

January 26, 1928.

Mr. Jack Levin: Will you please advise if you consider this the correct procedure?

Sincerely yours, —— ——, Secretary.

[fols. 2535 & 2536] Ex. 14

Copyright Protection Bureau, Representing National and Regional Distributors of Motion Pictures in the United States, 469 Fifth Avenue, New York City

January 30th, 1928.

Miss Audrey Littell, Film Board of Trade, 335 Fifth Avenue, Pittsburgh, Pa.

Dear Miss Littell: This is in reply to your letter of January 26th, with reference to the cases of Burnsville, W. Va. and Adrian, W. Va. from which I note that you have

sufficient evidence in your possession relative to unauthorized usages of film concerning the Metro and Fox Exchanges.

Before calling in the Exhibitor, request the Metro Exchange to submit their claim statement for the five pictures used without authorization using the language set forth in Form #10. At $250.00 for each such violation would bring their claim in the amount of $1250.00. In the matter of Fox, I would suggest that the Exchange obtain the specific titles of as many of their pictures as have been alleged to have been exhibited at Adrian as is possible. Based upon the number of pictures they will also submit to your office a claim, using the language set forth in Form #10, the minimum of $250.00 for each picture so mentioned. The total of their claim and the total of Metro claim would be the figure with which to settle with the Exhibitor prior to placing same on the Arbitration calendar.

Assuming that the claim would total $5000.00, the basis for a minimum figure would be $2500.00. The Committee may not accept a figure in a lesser amount unless same is first reviewed by the Home Office of Copyright Protection Bureau. You will advise the members of your Committee that they should inform the Exhibitor that these figures are reviewed by New York, and therefore they have no control over accepting the figure that might be set forth by the Exhibitor.

[fol. 2537] Ex. 14 (Second page)

Copyright Protection Bureau, Representing National and Regional Disributors of Motion Pictures in the United States, 469 Fifth Avenue, New York City

January 30th, 1928.

Miss A. L.—#2:

In this way no embarrassment is brought about because of the individuals acting on these Committees.

Please keep us advised of future developments. Kindest regards,

Sincerely yours, (Sgd.) Jack Levin, Jack Levin.

JL/ms.

[fol. 2538] Ex. 23

Copyright Protection Bureau, Representing National and Regional Distributors of Motion Pictures in the United States, 469 Fifth Avenue, New York City.

March 15th, 1928.

Miss Audrey C. Littell, Secy. Film Board of Trade, Pittsburgh, Pa.

Dear Miss Littell: I am pleased to note your letter of March 5th, 1928 to Mr. Levin in which you enclosed copy of award rendered in favor of Metro-Goldwyn-Mayer Distributing Corp. in the sum of $1250.00 on their claim against H. B. Gibson, Burnsville Theatre, Burnsville, W. Va.

I wish to commend you for the expediency with which you collected the evidence in this case and the manner in which it was handled.

Sincerely yours, (Sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

D:P.

[fol. 2539] March 20, 1928.

Mr. Gabriel L. Hess, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: With further reference to the award rendered by the Joint Board of Arbitration on March 2, 1928 against H. B. Gibson, Burnsville, W. Va. concerning which I wrote you under date of January 26, 1928:

I presume there is no distinction between an award against an exhibitor found guilty of violating the copyright law and other awards in the event the exhibitor desires to place a deposit with the exchanges with which he has contracts.

The award in the instant case is for the sum of $1250.00 and to date the exhibitor has failed to comply or to make any answer whatsoever.

The award is in favor of Metro Goldwyn and Mr. Maloney, the local manager, has requested that I communicate with you and ascertain whether or not any distinction can be made on an award as above mentioned.

Sincerely yours, —— ——, Secretary.

Ex. 24.

[fol. 2540] Copyright Protection Bureau, Representing National and Regional Distributors of Motion Pictures in the United States, 469 Fifth Avenue, New York City

April 9th, 1928.

Miss Audrey C. Littell, Secy. Film Board of Trade, Pittsburgh, Pa.

Dear Miss Littell: Please refer to my letter of March 26th, 1928 concerning the award rendered by the Joint Board of Arbitration against H. B. Gibson, Burnsville, W. Va. in which I recommended that if the exhibitor does not comply with the award made by your Board of Arbitration against him for the bicycling of pictures, the members of your Film Board of Trade proceed to enforce the award as provided in the Rules and Regulations relating to Arbitration.

Will you be good enough to let me have a report on the above case?

Sincerely yours, (Sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

26.

Ex. 25.

[fol. 2541] April 11, 1928.

Mr. Gabriel L. Hess, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: Replying to your letter of April 9, 1928, concerning the award rendered by the Joint Board of Arbitration on March 2, 1928 against Mr. H. B. Gibson, Burnsville, W. Va.:

Please be advised that this exhibitor failed to comply with the award rendered against him and service was suspended on March 24, 1928.

We are now of the belief that Mr. Gibson is still bicycling pictures from some source and have delegated representatives of the exchanges to check the various theatres operated by Mr. Gibson with a view of ascertaining just what pictures are being shown.

Sincerely yours, —— ——, Secretary.

Ex. 54.

[fol. 2542] June Twenty-seven, 1928.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: Replying to your letter of June 5, 1928 concerning the activities of Mr. Gibson, formerly operating Theatres in Burnsville and Adrian, W. Va., against whom we have an award for bicycling, please be advised that we have as yet been unable to obtain any definite information.

Mr. Gibson has closed his Theatres and at the present time his exact whereabouts are unknown.

Very truly yours, Audrey C. Littell, Secretary.

acl/ef.

Ex. 57.

Charge to the account of Pittsburgh Film Board of Trade.

[fols. 2543 & 2544] Western Union Day Letter

Newcomb Carlton, President. J. C. Willever, Vice-President

Send the following message, subject to the terms on the back hereof, which are hereby agreed to.

October 23, 1928.

Gabriel L. Hess, 469 Fifth Avenue, New York, N. Y.

Columbia pictures have obtained awards against H T Finkle stop Other existing contracts are signed by William Finkle who operates theatre for H T Finkle stop May exchanges demand security on contracts signed by William Finkle because of award against H T Finkle stop Please wire answer.

Audrey C. Littell.

Ex. 696.

[fol. 2545] Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

October 31, 1928.

Miss Audrey C. Littell, Secretary Pittsburgh Film Board of Trade, Pittsburgh, Penna.

Dear Miss Littell: This is to acknowledge the receipt of your letter of October 25, 1928 in which you advise that

the award against H. T. Finkle in favor of Columbia Pictures had been complied with.

Upon the facts stated in your telegram and your letter of October 25th, it seems to me that the award could have been enforced against H. T. Finkle as the owner of the theatre, under the Rules of Arbitration, by distributors having existing contracts at the date of the award signed by William Finkle, the son of H. T. Finkle, upon the theory that as you state William Finkle, acting as manager for his father, was the agent for his father. The contracts signed by William Finkle are, in fact, the contracts of H. T. Finkle.

Sincerely yours, (Sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

19:31.
Ex. 699.

[fol. 2546] March 9, 1927.

Mr. C. C. Pettijohn, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Pettijohn: With further reference to the conditions existing in our Arbitration Board, want to say that it just seems that the last two or three months, the two factions on the Board have made up their minds to pull against each other. The Exhibitor Members insist upon arbitrating and considering all claims on the lines of justice and equity (Mr. Herrington's pet phrase.) The Distributor Members of the Board have taken the attitude that claims can only be arbitrated strictly along the lines of the contract and upon what is written on the fact of the contract. They do not sem to want to consider the conditions that exist in the town or conditions under which the contract was made, any verbal arrangements that might have been talked over or the character of the salesman, or any one of the dozen other points that the Exhibitors think should be taken into consideration. As a result we have had seven claims referred to a seventh arbitrator, in a little over two months. One particular claim got my goat—it was the claim of the Washington, D. C., Warner Exchange against the Victoria Theatre, Parsons, W. Va., and this claim has already been hanging fire for something over a

year. When it was turned over to this office and for the first time presented to the Joint Arbitration Board, they disagreed and said that if no settlement could be effected, a seventh arbitrator should be called. Mr. Bennett, the Exhibitor, has known me for a good many years, and finally made an agreement with me, and I thought I had the matter settled, when the Washington Exchange decided that there was more money involved than had been considered, and they also found some additional data they wished filed with the claim. Because of this and the fact that Mr. Bennett withdrew to a certain extent one of his charges against the Exchange, I asked our Arbitration Board if we could not consider this as a new claim, there being a different amount involved, other evidence submitted, and they said that we could. I, therefore, notified the Exchange, also [fol. 2547] Mr. Bennett, and the claim was set for hearing again with the new amount.

When the claim was presented by Miss Fineberg, (my being ill at the time), they refused to even consider the matter, (that is the Exhibitor Members refused to consider the matter, the Exchange Members admitted the fact that they remembered our requesting permission to file a new claim.) The Exhibitors said that the claim was to be turned over to a seventh arbitrator. Mr. Herrington absolutely denied our asking for permission to again present this claim to the entire Board, and neither Miss Fineberg's word or my word, over the telephone, did any good, and we were talked down. Then Mr. Bennett arose to remark that he would be unable to come in and appear before a seventh arbitrator until June of 1927. It has nothing to do with this claim, of course, but this is the first time that my word has been questioned in such serious way.

I have been here at the last two arbitration meetings, and at both meetings I kept pressing these matters of getting seventh arbitrators, in order to get the cases cleaned up. The present Exchange Members of the Board finish their services the last of this month, and our new members go in the first of April. This may help matters some, and I feel sure it would help a great deal if they could eliminate one member of the Exhibitor Board. In view of this fact the Board being in somewhat good humor this last Monday, decided that we could call a special meeting of the Arbitration Board, on Monday of next week, to hear the six

cases that had originally been turned over for a seventh arbitrator. This does not include the Parsons W. Va. claim. The Arbitration Board, beginning with Friday, March 18th, will meet on Fridays in the future, therefore, this special meeting is called for next Monday. Now the question in my mind is whether these six men after turning these claims over to a seventh arbitrator, can again consider these matters, especially since they told me not to notify either the Exhibitors or Exchanges interested. If they are not within their rights in doing this, please let me know at once, so I may put a stop to it.

[fol. 2548] It is my personal opinion that with the exception of perhaps one or two of these seven claims all of them could have been settled by the Arbitration Board with a little yielding on both sides. One of the claims was only for Twenty Eight Dollars and another for $110.00. Of course, the rest of them run up into money.

When the Exchange Members of the Board talk to me they yap about the one or two members of the Exhibitor Board. When the Exhibitors talk to me they have the same kick against one or two members of the Exchange Board. It seems to me from the attitude of both sides toward each other, not only during the sessions, but from the various remarks that are made to me by both sides, it is open secret that each side is out to hammer the other side down. Our new Board may help as I said before.

Very truly yours, Olive Harden, Sec'y Pittsburgh Film Board of Trade.

OJH:EF.
Exhibit 54.

[fol. 2549] Copy

March 10, 1927.

Mrs. Olive Harden, Secy. Pittsburgh Film Board of Trade, Pittsburgh, Pa.

Dear Mrs. Harden: This is to acknowledge receipt of your letter of March 9, 1927 to Mr. Pettijohn.

I believe the conditions outlined by you warrant my going to Pittsburgh to see if I cannot bring about a better understanding between the exhibitor representatives and the dis-

tributor representatives on the Board of Arbitration. Accordingly, arrange for a meeting of the Film Board of Trade on next Tuesday, March 15th, and ask all of the exhibitor representatives now serving as arbitrators to attend the meeting. You might also ask Mr. Herrington if he will indicate to you the names of the exhibitor representatives who are about to be appointed to the Arbitration Board upon the expiration of the term for which the present exhibitor representatives were appointed, so that you may ask the new members to also attend the meeting.

If possible, arrange to have the special meeting of the Board of Arbitration which you advise is called for next Monday, postponed to next Tuesday, or if necessary, Wednesday.

Sincerely yours, Gabriel L. Hess, General Attorney.

P. S.—Please be sure to ask Mr. Herrington to attend the meeting. G.L.H.

[fol. 2550] Copy

November 24, 1925.

Mr. D. T. Lane, Secretary Intermountain Film Board of Trade, 625 Continental Bank Building, Salt Lake City, Utah.

Dear Mr. Lane: We are glad to note that your Board has reinstated Mr. Davis, Manager of F. B. O., to membership in the Salt Lake City Film Board of Trade.

Previous action of members of your Film Board of Trade in refusing to do busines with or to sell pictures to so-called "booking agencies" was because of selling policies determined by their respective home offices. In other words, home offices of distributors wishing to discourage development of booking agencies refused to do business directly with such agencies.

Since the selling or non-selling of pictures to "booking agencies" or to an individual representing a group of users of pictures is a question of sales policy irrespective of the general effect the selling of pictures to booking agencies might have on business in your territory the question must be determined by individual members of your Board of Trade under instructions from their home offices.

It is, therefore, not within the province of the Film Board of Trade to make any rule or regulation which would

attempt to regulate the sales policy of its members. Whether or not a branch manager in Salt Lake City is to sell direct to the Department of Visual Education at the University of Utah or to the proposed purchasing agent for Ward Houses must be decided by the home offices of distributors and the branch manager there must necessarily follow the wishes of his home office in this regard.

It is the concensus of opinion of sales managers here that the home office of Film Booking Offices must determine whether or not they shall in the future do business with the Department of Visual Education of the University of Utah. In order that there might be no further misunderstanding on this matter and so that your Film Board of Trade will not again be faced with the same condition that has recently arisen I would suggest that each of your members immediately write to their home offices giving to them all necessary data and information and ask for instruction as to the policy to pursue in the future in so far as the selling Ward Houses in your territory is concerned.

[fol. 2551] As you know there has been considerable correspondence on this entire question. Two years ago when the matter was first called to the attention of home offices it was the unanimous opinion at that time that pictures should be sold to Ward Houses direct and not through a "booking agency" set up by the Department of Visual Education of the University of Utah. Since this is not now the unanimous opinion of all home offices the question resolves itself into one of sales policy and it is for this reason that I make the suggestion that each of your managers immediately communicate with his home office for future guidance.

Very truly yours, W. E. Wilkinson, Assistant to General Counsel.

W/W.

[fol. 2552] 0-8

December 1, 1925.

Mr. C. C. Pettijohn, General Counsel, Film Boards of Trade, 469 Fifth Avenue, New York City.

Dear Mr. Pettijohn: I am in receipt of a communication from W. E. Wilkinson under date of November 24, 1925,

relative to the F. B. O.-University of Utah situation. This letter, which has been read to the Intermountain Film Board of Trade, points out that "it is, therefore, not within the province of the Film Board of Trade to make any rule or regulation which would attempt to regulate the sales policy of its Members."

The Board discussed this letter at length, and has directed me to write to you further concerning it. The members are also writing to their respective home offices for further instruction in accordance with Mr. Wilkinson's suggestion.

If the rule passed by the Intermountain Film Board of Trade in 1923, adopting the policy of not selling to Mr. Egner because he was in effect a "sub-agent," is without the province of the Board, then is not the Board ruling which requests separate and individual contracts with each Ward House also out of order? This Board has also in the past designated certain "circuits" in this territory and has ruled that a separate contract must be made for each town in the circuit. Is not this question an interference with o-r regulation of the sales policy of our members? When this letter was read at the meeting of November 30, 1925, some of the members present were for immediately rescinding the action taken in 1923 relative to the selling to Mr. Egner. Others considered that it would be better to first write to you and also to their home offices before taking any such step. We all feel that it would be too bad if we cannot keep all of our members from doing business with Mr. Egner.

I realize that is a knotty problem and recognize that you folks in New York are having trouble with it at your end of the line. However, the situation has hurt the Intermountain Film Board of Trade.

Will you not write to us further on this subject, or better yet arrange to come out here and meet with us. I feel sure that your visit will have a beneficial effect, both in helping to solve this problem and in resuscitating the morale of our Boards.

With kindest personal regards, I remain

Very sincerely, Intermountain Film Board of Trade,
by —— ——, General Counsel.

DTL/L.

[fol. 2553] 0-34

Film Boards of Trade, 469 Fifth Avenue, New York

No. H-8

June 27, 1928.

Subject: Demand for security.

All secretaries of all film boards of trade (including Canada):

Having in mind paragraph three of Article Eighteenth (the Arbitration clause) of the Standard Exhibition Contract, particularly that part which provides that if an exhibitor fails to comply with an award, the distributor may, "at its option demand" * * * "security for the performance by the exhibitor of this and all other existing contracts between the parties," please advise me what is the practice of the members of your Board having obtained an award against an exhibitor and demanding security for the performance of the contract upon which the award is made as well as for the performance of other existing contracts with the same exhibitor at the same time that the other Members having existing contracts with such exhibitor demand security for the performance thereof.

Sincerely yours, (Sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2554] Copy

July 20, 1928.

Mr. D. T. Lane, Secretary Inter-Mountain Film Board of Trade, Salt Lake City, Utah.

Dear Mr. Lane: Enclosed is a letter bearing date June 20, 1928 from S. B. Rahn, Branch Manager of Tiffany-Stahl Productions, Incorporated to his General Sales Manager, Mr. E. J. Smith, concerning a controversy between Tiffany-Stahl and the exhibitors operating the Mission Theatre, Blackfoot, Idaho.

Please give me a detailed report of this controversy and of the facts and circumstances so that I can make a reply to the letter above referred to.

With your report return Mr. Rahn's letter.

Sincerely yours, Gabriel L. Hess, General Attorney.

19.18.
Encl.

[fol. 2555] Copy

Interoffice Communications

To: Mr. E. J. Smith—Home Office.
From: Mr. S. B. Rahn—Denver.
Subject ——.
Date: July 11, 1928.

(Stamp of Receipt: Tiffany-Stahl Productions, Inc. Received Jul. 14, 1928. Answered ——.)

Dear Mr. Smith: On June 20th, we sent you letter Air Mail from Salt Lake, advising you of the claim of DeMourdaunt and Drennan, Mission Theatre, Blackfoot, Idaho against Tiffany-Stahl, also the award that was allowed them by the Board of Arbitration of Salt Lake.

We explained this claim in detail at that time. To date we have heard nothing from you regarding same. Would appreciate a reply from you at your earliest convenience.

Very truly yours, Tiffany Stahl Productions, Inc.
(Sgd.) S. B. Rahn, Branch Manager.

S. B. Rahn.
ES.

[fol. 2556] 0-41

Case #61, Case #70, Case #78

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 5th Avenue, New York.

Dear Mr. Hess: I have your communication of July 20 inclosing a letter from Mr. S. B. Rahn, of Tiffany, to their general sales manager. In order for you to thoroughly understand the atmosphere surrounding this entire controversy, I might remind you that Mr. Paul DeMordaunt, the exhibitor in the matter, is the same man who a year or two ago wired Mr. Will Hays that our Credit Committee was do-

ing him dirt, and about which situation you wired me at the time. He is a wild man who prefers a good argument to a good picture. Tiffany, upon the other hand, have not had very good luck in this territory as yet. Confidentially, they had two men working for them here whom they had to let go, and they followed this by giving up their quarters and moving into joint quarters with Columbia Exchanges.

They have only an inexperienced girl in charge here who knows nothing of the intricacies either of the contract or the running of the film exchange. This handicaps them and they have made some enemies among the exhibitors because of their inability to deliver paper and also because of their inability to have available prints. In addition to that, their Mr. Rahn, or someone else, immediately instituted a policy of forcing dates by arbitration and the lady in charge of their local exchange has had a rather hard time, she informs me, because of being compelled by Mr. Rahn in Denver to proceed under the above handicaps. Please do not misunderstand me—I am only trying to give you the true reasons for this controversy.

I attach herewith a copy of the complaint filed by Tiffany in our case #61. This complaint is marked for your reference "A." I also attach herewith an exact copy of the award rendered in this controversy marked "B." I might state that our records indicate that we were advised on May 7, 1928, that these exhibitors had settled this award.

As I recall it, the reason the arbitrators did not allow Tiffany any amount for the first two subjects included in the attached complaint (A), was that the young lady in charge of the local Tiffany Exchange had not set in properly the first two arbitrary dates. It appears also that while this controversy was waging, she had made no ship-
[fol. 2557] ments of the last two.

On April 26, 1928, De Mordaunt and Drennen filed with the Board of Arbitration a complaint against Tiffany, and we are attaching a copy of the same hereto marked "C." We are also attaching herewith a copy of this award rendered by the Board of Arbitration in that controversy, marked "D."

The second hearing (our case #70) was quite exciting. Upon that same date Tiffany had one or two other cases

against other exhibitors heard and the gist of each defense seemed to be because of their local set-up not being able to live up to their own contracts. As a matter of fact, one of the exhibitor arbitrators, a Mr. Clifton Peirce, had some feeling of this kind against Tiffany and he very imprudently said some spiteful things to Mr. Rahn during the hearing of one of the other cases in which Tiffany was involved.

I note that Mr. Rahn states that he requested a postponement. It is true that he walked into the office a day or two prior to the date set for the hearing and suggested that the matter be continued. I discussed it with him and called his attention to the fact that DeMordaunt and Drennen were planning to be here from Idaho, and expressed the hope that he would stay over for the hearing. Incidentally, the local Tiffany office has had more than ten days notice of this hearing—but they were unable to be ready for it, probably because of their inadequate set-up which I outlined above. Mr. Rahn very decently consented to remain, but after his "run-in" with Mr. Peirce, the arbitrator, in a previous case, he grew somewhat uncomfortable and passed a note to me that he had to catch a train for Denver prior to the time this case could be reached, and that he also wished to challenge Mr. Peirce.

I immediately asked Messrs. DeMordaunt and Drennen if they would consent to having this case held over, but they insisted that it be heard since they had come so far to prosecute it. When this case was reached upon the calendar, I immediately told the members of the Board of Arbitration of Mr. Rahn's request, and they felt they were justified in view of all the circumstances, as I have related to you herein, to go on and hear the case.

After copies of the award (Case #70) (D) were mailed to the two parties involved, Mr. Rahn wrote to this office and complained of the situation. This happened while I was in Hollywood at our convention. While I was in Kansas City, shortly thereafter, Miss Peterson, my assistant, wrote to Mr. Rahn and called his attention to the fact that technically three days notice of his desire for postponement could have been insisted upon and that the challenge of an arbitrator, under the rules, had to be filed at least one [fol. 2558] week prior to the date of hearing. Upon my

return to this office I arbitrarily construed Mr. Rahn's complaint as a formal motion for a rehearing and for a re-opening of the second case (#70), basing my action upon the fact that he was then in possession of facts of which he had not known upon the original date of the hearing. These facts consisted of his having ascertained that these exhibitors did not have a dark house upon the dates complained, thus hoping to minimize any possible damages.

In spite of the fact that Paul DeMordaunt (above described) kept the wires hot censuring this office, I had Mr. Rahn's motion formally presented to the Board at its next meeting. They discussed the whole situation thoroughly at that time and directed me to make a minute entry as follows:

"That the application of Tiffany Productions, Inc., for rehearing be denied."

I believe the arbitrators stated during this discussion that the fact that these exhibitors did not have dark houses upon the dates in question, had in fact influenced them in keeping the damages which they had awarded as low as they did.

This tells the entire story, I believe, except that on May 22, 1928, Tiffany filed a complaint against these same exhibitors, a copy of which is attached hereto and marked "E." This matter was considered by the Board of Arbitration on June 6, 1928, and their award read as follows: "This controversy is hereby dismissed."

I suppose that every Board of Arbitration occasionally has a situation like this one, where one of the parties is unreasonably and tricky (like DeMordaunt). Upon the other hand, however, I do not hesitate to report to you confidentially that the local Tiffany Exchange has been mishandled in some respects.

Please do not think that I am taking in sides in the matter, but I thought I should report this to you, and I honestly believe that this is the root of their trouble. I think the Board of Arbitration in allowing them ten days in which to make settlement, was in error, but the arbitrators have not kept them from arbitration privileges to date because of the fact that their settlement may not as yet have been made.

We have leaned over backwards to be fair to them (Tiffany) and I have personally spent many hours with their young lady in charge of the Salt Lake office, in order to help her in every way possible. Mr. Rahn upon his last [fol. 2559] visit to Salt Lake told me that he intended to recommend to the New York office that they settle this award.

Sincerely, —— ——, Secretary.

DTL/LP.
Encls.

[fol. 2560] Form No. 1

"A"

Complaint

Case #61

Claimant's Copy.
(Stamped "Copy".)

DEAR SIR: We attach hereto a contract entered into with DeMordaunt & Drennan exhibitor, operating the Mission Theatre at Blackfoot, Idaho, in the City of ——.

We respectfully complain against said exhibitor as follows:

(Here insert a plain and concise statement of facts.)

We herein claim that Paul DeMordaunt has breached a contract dated the 7th day of January 28th in failing to exhibit and pay for the following pictures upon dates specified.

Subject	Date	Amount
College Days	3-25-26	25.00
Treasure Land	3-28-29	3.00
One Hour of Love	4-18-19	17.50
Barefoot Boy	4-15-16	3.00
Express on College Days which was refused		2.70
		51.20

That by reason thereof, we are entitled to recover from the said exhibitor, the sum of $51.20.

We desire you to advise the exhibitor of our claim, and if it is denied, or if the exhibitor fails to respond to your communication, or if an answer is received and it is not satisfactory to us, we desire our calim brought before the Board of Arbitration for determination.

Very truly yours, Tiffany Stahl Productions, Inc., Distributor. S. B. Rahn, Manager.

[fol. 2561] Form No. 4

Copy

"B"

Board of Arbitration

Case No. 61

(Stamped "Copy.")

City: Salt Lake.
State: Utah.
County: Salt Lake.

In the Matter of the Arbitration of Tiffany Productions, Inc., Distributor, and DeMordaunt & Drennen, Mission Theatre, Blackfoot, Idaho, Exhibitor

We, the undersigned arbitrators, having been duly appointed to arbitrate the matters in controversy existing between the above named Distributor and Exhibitor as by the provisions of the contract between said Distributor and said Exhibitor provided and after having taken the oath and after hearing the proofs and allegations of the said parties and due deliberation having been made we do hereby award, determine and order; that is to say:

Award

The Joint Board of Arbitration Awards that the Exhibitors herein shall pay to the Distributors herein the sum of $20.50, covering the contract rental prices of "One Hour of Love" and "Barefoot Boy" said payment to be made within ten days from the date of mailing notice of this award.

The Joint Board of Arbitration further finds that no cause of action exists at this time as to the items "College Days," "Treasure Land" and the express on "College Days."

Upon the failure of this Exhibitor to fully comply with this Award, the sum of $150.00 is hereby fixed as the maximum amount which each Distributor, a member of any film Board of Trade, having contracts with these Exhibitors (or either of them) may demand pursuant to the provisions of the Arbitration Clause contained therein as security for the performance by these Exhibitors (and each of them) of each such contract.

In witness whereof we have subscribed this award this 27th day of April, 1928.

Chas. L. Walker (L.S.), O. Wog (L.S.), John Rugar (L.S.), John J. Gillette (L.S.), Clifton Pierce (L. S.), Fred Gage (L.S.).

STATE OF UTAH,
County of Salt Lake:

On this 27th day of April, 1928, before me, a Notary Public in and for said County and State, personally appeared Chas. L. Walter, O. Wog, John Rugar, John J. Gillette, Clifton Pierce, and Fred Gage known to me to be the individuals described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

D. T. Lane, Notary Public. My commission expires —— —, ——.

[fol. 2562] Copy

"C"

Pencilled: Case #70.
(Stamped: "Copy".)

Blackfoot, Idaho, April 19, 1928.

Mr. D. T. Lane, Secretary Film Board of Trade, 626 Continental Bank Bldg., Salt Lake City, Utah.

DEAR SIR: The following is a claim we are presenting against Tiffany Stahl Productions, Inc., in fact two claims, one for Blackfoot and one for Rexburg, Idaho.

As you state in your own letter of April 5th, 1928, these claims are presented in accordance with the provisions of the Standard Exhibition Contract, and we will expect same to be dealt with in the terms of the Standard Exhibition Contract, and not thru presumptions or personal gains or losses, and if for any reason your organization cannot deal with these claims according to conditions of the Standard Exhibition Contract, then we reserve the right to place our claims in the hands of the common courts and have same ruled on according to The Standard Exhibition Contract.

The claim in Blackfoot is for $158.90, covering the failure of Tiffany Productions to ship for our use on April 18th and 19th, the feature production One Hour of Love and also their failure to ship for our use on April 15th and 16th, the color Classic Barefoot Boy.

The above two named subjects were booked and dated and claim for collection presented by Tiffany Stahl Productions, according to the Terms and Condition of the Standard Exhibition Contract, namely Clause Ninth, Division (c), part I.

Now, Tiffany Stahl Productions were within their rights in dating these two productions on the above dates, and done so according to the terms of the standard exhibition contract, and according to the above enumerated Clause, they further recognized these rights thru presenting to the Joint Board of Arbitration a claim covering rental on the above two productions, same claim presented for the purpose of forcing playing and collection of dates as set by Tiffany Stahl.

Again, we claim, Tiffany Stahl, after setting dates according to the terms of the standard exhibition contract, did not protect said dates, nor said theatres of DeMor-
[fol. 2563] daunt and Drennen, by failure on the part of Tiffany Stahl to use any of the common carriers to ship above productions for the use of DeMordaunt and Drennen, on the dates Arbitra-ily selected by Tiffany Stahl Productions, according to the Terms of the Standard Exhibition Contract.

Also according to clause Eighth, the Distributor has agreed to supply the above productions in ample time for our use according to dates selected by Tiffany Stahl.

Our claim in the case of Blackfoot covers, the mean average business for these two days, over a period of ten weeks,

and added to this is a claim of $10.00 for the Color Classic, and expense incident to loss of obtaining these pictures, $21.00.

In Case of Rexburg

The same conditions prevail as in the case of Blackfoot, on the part of Tiffany Stahl, who set and selected dates, and filed a complaint for collection of same, as in case of Blackfoot, and then failed to protect said dates and theatres of DeMordaunt and Drennen. The pictures and dates are set for Rexburg by Tiffany Stahl are as follows:

One Hour of Love for April 18th and 19/1928.

Barefoot Boy for April 15th and 16th/1928.

The Claim for Rexburg covers the same expenses as Blackfoot and has been derived at in the same manner, said claim being for $118.00.

We will appreciate being advised at what time the above cases will be heard.

Yours very truly, DeMordaunt & Drennen, by Paul DeMordaunt.

(Stamped: "Copy.")

[fol. 2564] Form No. 4

Copy

"D"

Board of Arbitration

Case #70

(Stamped: "Copy.")

City: Salt Lake.
State: Utah.
County: Salt Lake.

In the Matter of the Arbitration of Tiffany Productions, Inc., Distributor, and DeMordaunt & Drennen, Blackfoot, Idaho, Exhibitor.

We, the undersigned arbitrators, having been duly appointed to arbitrate the matters in controversy existing be-

tween the above named Distributor and Exhibitor as by the provisions of the contract between said Distributor and said Exhibitor provided and after having taken the oath and after hearing the proofs and allegations of the said parties and due deliberation having been made we do hereby award, determine and order; that is to say:

Award

The Joint Board of Arbitration awards as follows, to-wit:

1. That this Distributor, Tiffany Productions, Inc., shall pay to these Exhibitors, DeMordaunt & Drennen, the sum of Seventy-two and No/100 ($72.) Dollars within ten (10) days after the receipt of notice of this Award.

In witness whereof we have subscribed this award this 14th day of May, 1928.

Chas. L. Walker (L. S.), Wayne Ball (L. S.), L. Wingham (L. S.), John Rugar (L. S.), John J. Gillette (L. S.), Clifton Peirce (L. S.).

STATE OF UTAH,
County of Salt Lake:

On this — day of ——, 1922, before me, a Notary Public in and for said County and State, personally appeaerd —— ——, known to me to be the individuals described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

—— ——, Notary Public. My commission expires —— —, ——.

[fol. 2565]

Copy

Form No. 1

#"E"

Pencilled: #78.
(Stamped: "Copy.")

Board of Arbitration

Complaint

DEAR SIR: We attach hereto a contract entered into with DeMordaunt & Drennen exhibitor, operating the Elk or Rex Theatre at Rexburg, Idaho, in the City of ——.

We respectfully complain against said exhibitor as follows:

(Here insert a plain and concise statement of facts.)

DeMordaunt & Drennen of the Elk or Rex Theatres, Rexburg, Idaho, has breached a contract dated the 6th day of January, 1928, in failing to exhibit and pay for the following pictures upon the dates specified.

Subject	Date	Amount
One Hour of Love	May 1, 1928	$12.50
Memories	May 1, 1928	3.00
Express on the above two		3.28
Husband Hunters	May 8, 1928	12.50
Express		2.50
College Days	May 15, 1928	17.50
Broken Gate	May 22, 1928	12.50
Enchanted Island	May 29, 1928	12.50

That by reason thereof, we are entitled to recover from the said exhibitors, the sum of $76.28.

We desire you to advise the exhibitor of our claim, and if it is denied, or if the exhibitor fails to respond to your communication, or if an answer is received and it is not satisfactory to us, we desire our claim brought before the Board of Arbitration for determination.

Very truly yours, Tiffany Stahl Productions, Inc.,
Distributor. —— ——, Manager.

[fol. 2566] October 5, 1926.

Mr. C. C. Pettijohn, General Counsel, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Pettijohn: At the Film Board of Trade meeting held yesterday quite some discussion took place as to just what part the contracting for service for more than one town on the one contract played in encouraging "bicycling."

Although the discussion brought out the fact that Distributors had issued instructions to managers to make up separate contracts for each town, contracts for more than one town were being taken and moreover were being accepted by the Home Offices.

It was the opinion of some of the members that just so long as more than one town or one theatre was written on one contract, just that long would we have "bicycling" in this territory—that such contracts are the root of the "bicycling" evil and that strict instructions should be sent out stopping this practice, and let us start off with a clean sheet.

It was thought that your office should take this up with the General Sales Managers and get the necessary instructions issued, and see that no contracts are accepted unless they are for individual theatres.

Many of the members were emphatic in their statements that we were encouraging exhibitors to buy chains of theatres, encouraging them to "bicycle" film, and were reducing revenue every time a contract was written for one theatre with the privilege of using the service in another theatre or another town.

On the other hand, some of the members were of the opinion the contracts had nothing to do with "bicycling," and that it was entirely up to an Exchange if they preferred to write contracts in that way and could explain satisfactorily to their Home Office just why the contracts were so taken.

In the end, the writer was asked to write to you for an [fol. 2567] expression of opinion on this matter—whether you think it is correct for the Exchanges to take contracts that call for service to be used in more than one town or theatre.

We shall await your letter with interest.

Yours very truly, St. Louis Film Board of Trade.

—— ——, President.

297-4.

[fol. 2568] Memorandum Concerning Contracts Which Should Not Be Taken Or Approved

1. Contracts which specify two or more theatres, the names of which are separated by a dash, or a comma or a semi-colon or separately stated without any punctuation marks between them, for example: Rialto-Capital Strand, State Rivoli; Colony Broadway New York.

2. Contracts which fail to specify the number of days (which should always be consecutive) opposite the title of each picture specified.

3. Contracts which specify one theatre but in the schedule or at some other place in the contract contain a clause or provision:

(a) Permitting the exhibitor to play a number less than all the pictures for one or more days at some other theatre or at a school or at a church or other institution; or

(b) Permitting the exhibitor to have a "repeat" booking at the same or some other theatre; or

(c) Permitting the exhibitor to play the pictures for the number of days specified at other theatres if played consecutively. For example: a contract with Theatre A to which has been added a clause permitting the exhibitor to exhibit the pictures at theatres B and C *if played consecutively.*

4. Contracts, the terms of which are changed or modified by any separate written agreement embodied in a letter or written memorandum, or otherwise.

5. Contracts which permit the exhibition of the pictures contracted for at all or less than all of the theatres of any circuit or chain of theatres.

6. Contracts which are improperly executed by the exhibitor. For example:

(a) If the exhibitor's name indicates the exhibitor is a corporation it should be executed by a corporate officer authorized by the corporation to execute contracts. Such execution should be in the following form:

"The ABC Corporation by John Doe, President," or the "ABC Corporation by John Roe, Secretary" (or any other officer of the Corporation).

(b) If the exhibitor's name indicates a partnership, one of the partners should sign the partnership name, followed by his own name in the following form:

"Doe and Smith, by John Smith."

(c) If the exhibitor's name indicates he alone is the owner or operator of the theatre, his name alone and not that of the theatre shall be signed. For example:

A contract with "John Doe, operating the Strand Theatre," should be signed "John Doe,"—not "Strand Theatre."

(d) If the name of the exhibitor appears as "John Smith Company" or "John Smith & Company," immedi-
[fol. 2569] ate inquiry should be made to ascertain if the company is a corporation or a partnership. The signature "John Smith Company" or "John Smith & Company" should not be accepted because from such signature it cannot be determined whether or not a corporation or a partnership executed the contract.

Issued by Film Boards of Trade, October, 1928.

(Union Label 493.)
297-3, P. W.

[fol. 2570] Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

October 8, 1926.

Mr. Harry Weiss, President, St. Louis Film Board of Trade, 3312 Olive Street, St. Louis, Mo.

Dear Mr. Weiss: My opinion of the subject concerning which you wrote Mr. Pettijohn on October 5th, 1926, is expressed in a letter which will be sent to the General Sales Managers of all national distributors represented in the membership of the Film Boards of Trade, and to the regional distributors, a copy of which is enclosed herewith.

Sincerely yours, (Sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Encl.

297-5, P.W.

[fol. 2571] Copy

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

October 8, 1926.

To all General Sales Managers:

It seems to be the consensus of opinion that where contracts for two or more theatres, or permitting the exhibition of pictures contracted for in more than one locality, are taken upon the same form of exhibition contract, it results in a reduction of film rental.

That in the case of a sale of one or more theatres, a part of a circuit of theatres, it is difficult, if not impossible, to arrange for the new owner to assume that part of an uncompleted contract with the circuit for pictures to be shown at the theatres sold because of the obstacle in determining the film rental to be paid.

That it encourages "bicycling", making it extremely difficult to prove, as in the case of contracts with circuits acquiring additional theatres after such contracts have been made.

That it is primarily responsible for many controversies with exhibitors which can be avoided if a separate contract for each theatre is entered into.

Accordingly, may I not suggest that you advise all of your branch managers, and your contract department in your office to require that in every contract but one theatre in which the pictures contracted for are to be exhibited, be [fol. 2572] specified?

I would appreciate a copy of your letter to your branch managers in this respect.

Sincerely yours, Gabriel L. Hess, General Attorney.

(Union Label 347.)

297-6, P.W.

[fol. 2573] Film Boards of Trade, 469 Fifth Avenue, New York

Subject: —— October 9, 1926.

To all secretaries St. Louis Film Board of Trade.

Enclosed is a copy of a letter sent to the General Sales Managers of all of the national distributors represented in the membership of your Film Board of Trade.

Please send a copy of the same to each of your members representing a regional distributor.

Very truly yours, (Sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

encl.

297-7, P.W.

[fol. 2574] October 9, 1926.

Dear Sir: It seems to be the consensus of opinion that where contracts for two or more theatres, or permitting the exhibition of pictures contracted for in more than one locality, are taken upon the same form of exhibition contract, it results in a reduction of film rental:

That in the case of a sale of one or more theatres, a part of a circuit of theatres, it is difficult, if not impossible, to arrange for the new owner to assume that part of an uncompleted contract with the circuit for pictures to be shown at the theatres sold because of the obstacle in determining the film rental to be paid.

That it encourages "Bicycling," making it extremely difficult to prove, as in the case of contracts with circuits acquiring additional theatres after such contracts have been made.

That it is primarily responsible for many controversies with exhibitors which can be avoided if a separate contract for each theatre is entered into.

Accordingly, may I not suggest that you advise all of your branch managers, and your contract department in your office to require that in every contract but one theatre in which the pictures contracted for are to be exhibited, be specified?

I would appreciate a copy of your letter to your branch managers in this respect.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol. 2575] #5

June 7th, 1926.

Mr. Gabriel Hess, Film Boards of Trade, New York City.

DEAR MR. HESS: This will acknowledge receipt of your letter dated June 2nd, with regard to suspension of the Washington manager of the Metro-Goldwyn-Mayer Distributing Corporation from the Washington Film Board of Trade for a period of six months. Your letter was addressed to Mr. Hunter, who has asked that I answer it for him.

In accordance with your letter, Mr. Berger, the manager in question, is today being given written notice that the charges against him will be presented for hearing and determination at the meeting of the Film Board of Trade on Monday, next, June 14th.

I am enclosing you herewith copy of the charges.

In this connection, wish to give you a little information about this case and about the condition of things here.

Since the split in our ranks on the handling of the Virginia Censorship matter last fall (handling of Censorship matters by exhibitors), which eventually was decided in accordance with sound policy by placing Censorship matters in disinterested hands, there has been much bad feeling and lack of cooperation generally. Conditions grew so bad that it was felt that if we were to continue with any morale at all, some definite action would have to be taken on some of these cases, and the Metro-Goldwyn matter happens to be one on which some definite action was taken. I am instructed to advise you that our Board feels that drastic action in this case is imperative if the charges are proved.

About the notice given, Mr. Berger's authorized representative was given full verbal notice at the preceding meeting, which before the hearing he announced had been conveyed to Mr. Berger, but I of course agree with you that formal written notice of the charges should have been given the accused in advance, and so advised our members before they had their meeting. It was merely an oversight that it

[fol. 2576] was not given, and President Hunter called Mr. Berger on the telephone before the meeting, advised him of the charges, and asked him what he (Mr. Berger) wanted done about it. Mr. Hunter says that Berger over the phone waived notice and said "go ahead"—Mr. Berger on the other hand states that he did not say this.

So it looks as though the best thing to do would be to conform to your suggestion, and have the hearing over.

While on this subject, please give me written reply to the following:

In a case such as this, should the exchange be suspended for a period of time, does the exchange pay dues during that period?

Does the exchange get any protection on contracts taken during the suspended period?

Is the exchange obligated to refrain from serving accounts that have failed to comply with Arbitration Board decisions?

Manifestly if the exchange could after the period of suspension has elapsed bring claim on contracts entered into during that period, or for contractual violations on the part of exhibitors that have occurred during the period, then the suspension itself would be of little avail as a disciplinary measure.

Please let us hear from you in regard to this matter.

Very truly yours, Film Board of Trade, by ——— ———
Executive Secretary.

smb.

[fol. 2577] #3

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

June 9, 1926.

Mr. S. M. Boyd, Executive Secretary Washington Film Board of Trade, Washington, D. C.

DEAR MR. BOYD: This is to acknowledge the receipt of your letter of June 7, 1926 concerning the suspension of the Washington manager of the Metro-Goldwyn-Mayer Distributing Corporation from your Board of Trade and also the copy of the charges enclosed therewith.

The following are the answers to your questions:

The suspension of a member for violation of the by-laws of the Film Boards of Trade does not affect such member's obligation to continue to pay dues during the period of suspension and such member is during such period subject to all the Rules and Regulations relating to Arbitration but is not entitled to any of the benefits or advantages thereunder.

The Arbitration Clause of contracts approved during the suspension period of a member is not affected and controversies arising out of any such contracts must be submitted for arbitration.

An award made in favor of a distributor prior to the date of the suspension of such distributor must be complied with and if the award is not complied with members of the Film Board of Trade are required under the by-laws relating to arbitration to take the steps therein provided for the enforcement of such award.

[fol. 2578] A suspended member is obligated to comply with the by-laws relating to arbitration for the enforcement of awards against exhibitors in favor of other members of your Board of Trade.

During the period of suspension a member may not submit any claim or controversy for arbitration and all pending submissions of such member made prior to the beginning of the period of suspension should be adjourned to a date after the expiration of the period of suspension.

Very truly yours, (Signed) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2579] #7

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

July 8, 1926.

Mr. James B. Fitzgerald, Secretary Washington Film Board of Trade, 706 Mather Building, Washington, D. C.

DEAR MR. FITZGERALD: Your letter of the 5th, relative to the condition of the records of your office, was referred to me.

Within a short time, Miss Dorothy Kenney of this office, will be sent to Washington to aid you in putting your records in proper shape. She will also advise you relative to the various reports.

With kindest regards, I remain

Very truly yours, (Signed) L. H. Flinn, L. H. Flinn,
Assistant to General Counsel.

[fol. 2580] #13

Confidential Correspondence

July 9, 1926.

Mr. L. H. Flinn, Asst. General Counsel, Film Boards of Trade, 469 5th Avenue, New York City, N. Y.

DEAR MR. FLINN: I am enclosing you herewith, a copy of a letter which I sent to each Manager and marked on envelope "personal."

In my observations for the past three weeks, I find that the contents of the letter sent them covers the situation here and I trust that the reaction to this letter will be such as to make my hopes and aspirations as outlined to them come true. The reason that I [redacted]ending you a copy of this letter, is to first let you know [redacted]t I am doing and also to present to you as evidence as to why I am making the following request.

Is it feasible and convenient for you to have the sales Managers of each organization that is a member of this Board, write a letter to their Manager in Washington advising them in cases where an Exhibitor has failed to comply with the decision of the Joint Board of Arbitration and has deposited with them a certified check as a security for the performance of the contract, to serve that Exhibitor according to the terms of the contract.

My reasons for the above request are as follows:

You are quite familiar I believe or have some knowledge of the Dreamland Theatre, East Radford, Virginia case wherein First National's franchise called for pictures to be played at the rate of one per week. This Exhibitor failed to comply with the award of the Joint Board of Arbitration and was able to get sufficient service from First National

to enable him to defy the Board and he has been able to withhold abiding by the award for the past eleven (11) months, and with another incident which happened only recently in the case of Metro-Goldwyn, he will be able to continue for some time.

During the past week several of the members have said to me, "Fitz can't you straighten out the Radford case."

There seems to be a tendency on the part of a few to admit they are licked and white-wash this case. This I am [fol. 2581] strongly opposed to as I have not had an opportunity to work on this case and I have requested a little time in which to straighten it out.

Recently, in fact last week another Exhibitor failed to abide by the award of Joint Board of Arbitration and furnished an additional deposit. The Company to which he furnished the additional deposit were serving him at the rate of two, three, and in only one incident six pictures per month. The terms of the contract called to be played at the rate of two or three per month.

When I learned that the additional deposit had been made I make a request that the check be sent through for certification and if the bank certified it for a sister bank, that the check when certified be shown to me. In the event that the bank would exercise their prerogative in refusing to certify a check for anyone other than the drawer that I be so notified and the check would then be sent through for collection and when collected a duplicate deposit slip signed by the teller of the bank be given me, showing that the check had been collected and the money deposited to the credit of the Company.

I requested that the contract of this particular Exhibitor be shown me as well as his cut-off card and I found that the Exchange was only required to serve two or three pictures per month. I requested the Booker to adhere to the terms of that contract and as far as possible see that only three pictures were available each month.

I made another investigation yesterday of this particular account and much to my surprise I found that this Company is supplying all the pictures that the Theatre requires for operation. Of course his contract will expire at this rate of service within two months, but it shows a lack

of unity and it does not abide by the motto that I have asked for now, "All for one and one for all."

So, if I can obtain through you the above request of the Sales Managers we should be able to eliminate the dissension among members caused by practices like the above two cases.

Cordially yours, Film Board of Trade, by James B. Fitzgerald, Executive Secretary.

JBF/ms.

[fol. 2582] Copy

July 8, 1926.

Mr. Bethel, Mgr. Trio Productions, N. J. Ave. & K. St. N. W., Washington, D. C.

DEAR MR. BETHEL: I am taking this means of placing before you my hopes and aspiratons for a 100% efficient and productive Film Board of Trade.

I am not going to ask your co-operation because the word "co-operation"' has been used so frequently that to me it seems meaningless. If you will permit me to digress for a moment I will relate a little story about the word "co-operation."

As the story goes:— "There was an Englishman visiting our Country and he was well educated and had the command of a very good vocabulary, pronunciation was nearly perfect and his flow of language was very smooth. One hot day he went to the seashore with a party of American friends and they went in bathing. The Englishman not being able to swim contented himself with paddling around, but he ventured out a little too far and the strong tide carried him beyond his depths and he went under. As he came up he bellowed Co-operation and the poor fellow sank with the word "co-operation" on his lips.

Now Mr. Bethel, I do not want to sink on this job, so I am going to bellow in the language that you understand and ask for help and some more help. Help in making this Board the most efficient and productive under the banner of the Will Hays organization. Now how is it to be accomplished? By constant and regular attendance at all the meetings of the Board, by serving on the various committees necessary for the proper functioning of our Board, making it a point to take so much interest in the Board

that you stand ready at all times to help your Secretary when he requires help, and help the members of the Board when they call on you. Take the same interest in the Board that you do in your weekly sales and collections.

I would like to make an indelible impression in your mind that I am working for you. Consider me an employee of your organization and when I make a request for information from you or any employee of your organization on matters pertaining to the Film Board, see that the information is given me with the same dispatch as other information is given by your employees to one another in the functioning of your office. In this manner your Film Board of Trade will be just as efficient and productive as your own organization.

[fol. 2583] In the report compiled last year with reference to the efficiency of the various Boards throughout the United States, the Washington Film Board of Trade was as far down in the Film Board League as the Washington Ball Club is today in the American League. Now what is your comment on the conditions of the Washington Ball Club? Some say they are rotten, others say there is some dissension in the ranks and the team is not pulling together. Is that the reason we are so far down in the Film Board League? If it is, then lets get together and eliminate these conditions.

In the Film Board League, Pittsburgh and Oklahoma City are the leaders. Are the managers of Trio in Pittsburgh and Oklahoma City any better executives than you? I doubt it very much. There must be a reason for them being at the top—what is it? Evidently the members of the Pittsburgh and Oklahoma Film Boards have been able to solidify their Boards with the motto, "one for all and all for one." We can do it, we must do it. You owe that much to me. I am working hard to make this Board the outstanding Board in the Country but I cannot do it alone, I need your help and and I am now calling for it. Are you going to help me or let me sink? Make it a point to be regular in attendance at all the meetings of the Board. Take an active interest in its affairs and above all stand by your Board as one.

You no doubt read the story in the Film Board Bulletin about the functioning of the Boards. For your information will give you the gist of the story.

"An Egyption father of five sons called them together one day and handed them a bundle of twigs and asked each one to break it. They all tried but were unsuccessful. Then he told them to break the bundle and each take a twig and try to break it,—doing so they found how easily it was to break the single twig." That incident gives us the same moral we hear so often in our own United States, united we stand, divided we fall."

Beginning at the next meeting of the Film Board, July 12th lets have 100% attendance by the Managers. Don't send a subsitute because you are not giving the Board the benefit of your views on the matters that come before it and you are not giving your Home Office what they are entitled to. Often times very important questions arise in the meeting and we have three or four substitutes who are unable to say anything on the question for fear that their views may not coincide with their Manager, with the result that the Board is retarded in the proper disposition of the question at hand. Your Company pays between $15,000.00 and $30,000.00 a year for service from Film Boards and you are [fol. 2584] not giving them service when you fail to attend the meetings.

Before closing I again solicit your help in making this the finest Board in the Country. Remember the story of the twigs, "United we Stand, Divided we Fall."

Cordially yours, Film Board of Trade, by James B. Fitzgerald, Executive Secretary.

JBF/ms.

[fol. 2585] #17

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

October 1, 1926.

Mr. James B. Fitzgerald, Secretary, Washington Film Board of Trade, Washington, D. C.

Dear Mr. Fitzgerald: Please advise me of the present status of the claim of Warner Brothers against Dalke, New Theatre, Woodstock, Va. before your Board of Arbitration.

Very truly yours, (Signed) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2586] #18

October 4, 1926.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 5th Avenue, New York, N. Y.

Dear Mr. Hess: Responsive to your favor of October 1st in re. complaint of Warner-Vitagraph versus Wm. Dalke of the New Theatre, Woodstock, Virginia, beg to advise that our Joint Board of Arbitration awarded Warner-Vitagraph damages in the amount of five (5) times the rental of the film.

Very truly yours, James B. Fitzgerald.

JBF/ms.

[fol. 2587] #19

Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

October 6, 1926.

Mr. James B. Fitzgerald, Secretary Film Board of Trade, 706 Mather Building, Washington, D. C.

Dear Mr. Fitzgerald: Thanks for your letter of October 4th, 1926 advising me of the award in the controversy between Warner-Vitagraph and William Dalke, New Theatre, Woodstock, Va.

Sincerely yours, (Signed) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

[fol. 2588] #7

July 13th, 1927.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 5th Avenue, New York City, N. Y.

Dear Mr. Hess: I am anticipating some trouble from my friend, Machat. I was going to 'phone you this afternoon but as the story is a lengthy one I thought I had better write it and you would have the facts before you.

The character of Mr. Machat is well known to you and to the members of this Board. Mr. Machat operated the

Park Theatre in this city as President of the Hoffman Park Theatre, Inc with a lease from Harry Wardman. The Hoffman Park Theatre, Inc. discontinued the operation of the Park Theatre, leaving approximately $8000.00 worth of uncompleted contracts. Mr. Machat then operated the theatre personally on a month-month basis for a period of a few months and then closed the theatre, leaving about $2000.00 worth of uncompleted contracts in his own name.

He had the Aladdin Theatre, Baltimore, Md. and closed that, leaving uncompleted contracts in his own name.

He operated the Wardman Park Hotel Theatre, which is separate and district from the Park Theatre mentioned above and discontinued operation at the Wardman Park while making a few improvements and reopened under the name of the Film Arts Amusement Company, said Corporation also operating the Little Theatre in this city.

We placed the Wardman Park Theatre on the Credit Information List when we learned of this change and Mr. Machat refused to furnish any credit information and the Committee placed a Cash security of $1000.00 on the Film Arts Amusement Company, thereupon all members required $1000.00 cash security for any contracts which the Film Arts Amusement Company desired to enter into, whether for the Little Theatre or the Wardman [fol. 2589] Park and consequently Mr. Machat has had some trouble in getting product.

Under date of July 12th, which was only yesterday, United Artists Corporation in assigning dates to all accounts in the territory that were delinquent by error sent a letter addressed to Mr. Nathan Machat in re Wardman Park Theatre and assigned dates on some old contracts, which Mr. Machat when in good standing ignored. Two contracts dated May 24, 1926 called for the exhibition of "Pollyanna" for two days at $10.00 and "Rosita" for two days at $13.00. These contracts were signed Moving Picture Guild by Nathan Machat, Manager. The other contract was dated April 9, 1927 for "The Man Who Played God" at $10.00 with no arrangement as to the number of days of exhibition.

Upon receiving the letter of assigning dates from United Artists, Mr. Machat called at the office today and booked the pictures and told the Booker that he would play "Pollyana" three days instead of two and "Rosita" four days in-

stead of one and pay $50.00 for both pictures for the week. The Booker accepted the dates and put them in his booking sheet but has made no confirmation in writing.

This theatre is now operated by the Film Arts Amusement Co., and I told the Manager that he would have been within his rights, since the contracts were signed by the Moving Picture Guild and not by the Film Arts Amusement Co., and the fact that he permitted the Exhibitor to play the pictures for a longer period of time than the contract called for and accepted additional rental was in effect, the taking of a new contract.

Mr. Machat told the Manager of the United Artists as follows: "I am coming into your office within a day or two and am going to offer to buy your pictures for use at my Little or my Wardman Park Theatre and am going to have with me an employee of the Federal Trade Commission, so be careful what you tell me because I am going to make an issue of the activities of the Credit Committee of Film Board of Trade.

[fol. 2590] I told this manager that if Mr. Machat came in tomorrow with the party from the Federal Trade Commission and sought to buy pictures, that he could tell Mr. Machat that he did not care to do any more business with him as his account has been very unsatisfactory and at the present time there still remained in the file approximately $500.00 of uncompleted contracts in his name and until such time as he proved good faith either by the completion of these contracts or the payment of the rental for those contracts he would not consider him as a customer.

Another excuse which I am using for those members who have not had dealings with Mr. Machat before is, to the effect, that they will be glad to enter into a contract with him upon payment in advance of $1000.00 as a deposit in good faith for the complete performance of their contract.

In the case of Famous Players their excuse will be that he refused to submit to Arbitration on their contract and until he submits to Arbitration on that contract they do not care to do any more business with him. I might mention here, that the manager for Famous Players withdraw the case from the file when Mr. Machat refused in writing to submit to Arbitration, rather than to bring the case to the Board.

I don't know whether or not Mr. Machat will carry out his threat to bring an employee of the Federal Trade Commission with him but I do know that an employee of the Federal Trade Commission is a resident of the Wardman Park Hotel and it is evident that he must be some man of prominence in the Commission, otherwise, he could not reside at the Wardman Park Hotel.

If my procedure is not in accordance with your views, please advise me immediately by 'phone or wire.

Sincerely yours, James B. Fitzgerald.

JBF/ms.

[fol. 2591] Ex. 587

Mr. James B. Fitzgerald, Secy. Washington Film Board of Trade, Washington, D. C.

DEAR MR. FITZGERALD: This is in reply to your letter of June 27, 1927.

It seems to me that members of a Film Board of Trade may, without violating the law, agree among themselves to refrain from spot booking a picture to an exhibitor on a date that such exhibitor has contracted for and agreed to exhibit a picture of any one of them.

The exhibitor having contracted with one member to exhibit pictures on a fixed date is obligated to carry out and perform such contract unless for reasons deemed sufficient he claims because of some provision of his contract or some act of the distributor he is released or relieved from such obligation, in which case such claim under his contract must be submitted to arbitration and such redress as he is entitled to will be given to him by the Board of Arbitration.

The practice of exhibitors who without righ arbitrarily refuse shipments of pictures contracted to be shown on a fixed date because of their ability to spot book pictures from other distributors is a bad one, and should not be permitted to continue.

Therefore, the plan of your members to inform each other of the intention of an exhibitor to refuse to exhibit a picture upon an agreed date with the understanding and agreement among them not to spot book such exhibitor a picture on such date or the date immediately preceding it

is, in my opinion, one which seeks to do away with an abuse and does not violate the statutes enacted to prevent restraint of trade.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol. 2592] Copy

August 8, 1928.

Mr. J. R. Grainger, Fox Film Corporation, West 55th Street, New York.

Dear Mr. Grainger: Enclosed is a memorandum to me from Mr. Jack Levin, of the Copyright Protection Bureau, concerning the action of your New Orleans Branch Manager in respect to a claim that W. J. Blaize, Movie Theatre, Buras, La. bicycled a number of your pictures.

After you have read this memorandum will you be good enough to return it to me and to advise your New Orleans Branch Manager in accordance with advices heretofore given to him by you that no claims of bicycling should be settled by him, and that all such claims must be submitted to you, and that you will in turn refer them to the Copyright Protection Bureau; or that they can be submitted directly to the Copyright Protection Bureau through the Secretary of the New Orleans Film Board of Trade.

If the sum of $131 has been paid by this exhibitor to you-New Orleans Branch Manager such sum should be sent to the Copyright Protection Bureau under the plan for its organization and operation with which you are, of course, familiar.

Sincerely yours, Gabriel L. Hess, General Attorney.

19:31.
enc.

[fol. 2593] Copy

Nov. 6, 1928.

Mrs. Marion G. Wrenn, Charlotte Film Board of Trade, 300 West 3rd Street, Charlotte, N. C.

Re: Oasis Theatre, Wilson, N. C., Colonial Theatre, Tarboro, N. C., Mr. H. J. Paradis.

My Dear Mrs. Wrenn: Attached is a letter addressed to you signed by Mr. Hess, with which is enclosed signed com-

plaints against Mr. H. J. Paradis. Please immediately you receive these claims proceed in the usual manner, provided in the Rules of Arbitration.

Please advise all your members and especially those involved in this case to the effect that if Mr. Paradis or any person interest in the Oasis Theatre, Wilson, N. C. and the Colonial Theatre, Tarboro, N. C. communicates with them, offering to settle for any unauthorized exhibitions prior to Oct. 22, 1928, that he be referred to you or directly to the Copyright Protection Bureau.

If it is the desire of Mr. Paradis to amicably settle these claims you may negotiate with him for such settlement on the basis of 13 violations, in each claim for damages before the Board a request for a minimum of $250.00 for each violation is made. The total amount of the claims based only upon the period of our investigation total $3250.00.

The Copyright Protection Bureau will recommend accepting the sum of $1200 in settlement of these claims to avoid the necessity of appearing before the Board of Arbitration and presenting the evidence obtained during the course of its investigations.

This suggestion is made only in the event the exhibitor communicates with you.

Please keep us advised of all developments until such time as each claim is definitely determined and disposed of.

Under separate cover I am forwarding a detailed report of our findings to date, which report is only for your information and is strictly confidential. Such report will acquaint you with each and every violation mentioned in the claims.

Sincerely yours, J. H. Levin.

26: W.

[fol. 2594] Copy

December 5, 1928.

Mr. J. R. Grainger, Fox Film Corporation, West 55th Street, New York.

Dear Mr. Grainger: In the matter of the complaint of Fox Film Corporation against W. J. Blaize, Movie Theatre, Buras, La. arising out of the claim that the exhibitor bicycled 19 of your features and 18 of your comedy pic-

tures to the theatre in Doullut's Canal, La., the New Orleans Board of Arbitration has awarded the Fox Film Corporation the sum of $1,900.

In this connection, please note that your Branch Manager at New Orleans prior to the time this claim was referred to the Copyright Protection Bureau, and in disregard of your instructions not to communicate with exhibitors concerning bicycling or other claims based upon the unauthorized use of your pictures or to attempt to settle such claims without first receiving the approval to do so from your office, wrote to the exhibitor offering to settle upon payment of $131.

We are advised that the exhibitor has been out of business for the last six months. However, it may be your desire to proceed at law against him to recover a judgment upon the award. In such case we will of course cooperate with you or counsel who may be employed by you.

Sincerely yours, Gabriel L. Hess, General Attorney.

19:31.

[fol. 2595] Copy

December 10, 1928.

Mr. B. L. Dudenhefer, Fox Film Corp., New Orleans, La.

DEAR MR. DUDENHEFER: Mr. Hess has written us regarding your settlement with the exhibitor of the Movie Theatre, Buras, La. as per the attached copy.

Again we point out to you that our branch managers are instructed not to file any claims or make any settlements with exhibitors because of bicycling or any violations of the copyright feature of our contract.

We have, through the Hays organization, established a copyright protection Bureau and all bicycling claims and violations of copyrights are handled by this bureau.

Will you please make certain not to file any further claims or make adjustments for bicycling or other violations of copyrights and will you please give us a report of this situation.

Very truly yours, E. C. Grainger.

ECG/D.
ATT.

[fol. 2596] Copy

April 12, 1927.

Miss A. L. Menagh, Sec'y., Kansas City Joint Board of Arbitration, Kansas City, Mo.

Dear Miss Managh: This is to acknowledge receipt of your letter of April 6, 1927 concerning the bicycling claim of F. B. O. against the exhibitor at Wakeeney, Kansas.

In a short time Mr. Flinn will be in Kansas City, and he will take up with the members of your Board of Arbitration the question of damages they should award in bicycling and switching cases. I feel certain that he can convince them that it is only fair, right and just that the amount which they award should not be less than the amount specified in the Copyright Law, which law the distributors cannot avail themselves of because of provisions of the Standard Exhibition Contract requiring them to first submit their claims for arbitration.

Yours very truly, Gabriel L. Hess, General Attorney.

[fol. 2597] Charlotte Film Board of Trade,
Charlotte, N. C.

July 5, 1928.

Mr. Gabriel L. Hess, 469 Fifth Avenue, New York City.

Dear Mr. Hess:

Re: Bicycling at Marion, S. C.

This exhibitor appeared before the Bicycling Committee July 2nd, 1928 as requested by the Committee.

Mr. Rogers states that he was not aware of the fact that it would be considered that he was bicycling as he had played all service bought for the white theatre at the colored theatre ever since the opening of this theatre, and that every salesman, also managers were aware of this fact, and had never made any objections. He also stated that each time he bought a contract the salesman would advise him that it would be all right for him to use the service in both houses, altho' there were no such agreements entered on the face of the contract.

This exhibitor has been in business a number of years and has never had any trouble of any kind with the Board, and stated that it was always his intention to do the right thing, but that after building this colored theatre, and the Salesmen all telling him that it would be agreeable for him to play the service in both houses, he had no idea that he was violating the law.

Due to the above the Committee have decided to take no further action in this case.

Do you think it advisable to send a letter reading as follows to all exhibitors operating more than one theatre?

As the new buying season has just opened, and as you buy for more than one theatre, it is necessary that you have separate contracts for each theatre, in each town, you no doubt know that you are not allowed to buy product for one theatre and run it in another, unless provided for in your contracts, as this practice is in violation of the Copyright Law, and you are liable to the Copyright Bureau for such violations.

If you are not operating on a basis of this nature, it is advisable to get permission from the exchanges, in writing, granting you this privilege, and same should be taken care of when you buy for the new season, as it is the intention of [fol. 2598] the Copyright Protection Bureau to check up all points of this nature coming to our attention.

Whatever you do, don't overlook this item, as it may work many hardships on you, if neglected.

Kindly check up on all bookings and see that you have the right to use these subjects as booked, and if not, secure a letter from the exchange at once, as this bureau expects to start its procedure in this territory within the next thirty days.

The above for your information.

It has been suggested by the Bicycling Committee that I send out a letter of this type, but first I want your opinion as to whether a letter should go out advising the exhibitors to get authorization for practices they are already carrying on. You will note the second paragraph reads: "If you are now operating on a basis of this nature it is advisable to get permission from the exchanges in writing."

It would seem to me that if they are operating on this basis they have violated the Copyright Law.

Awaiting your advice.

Very truly yours, M. G. Wrenn (Signed), Secretary.

[fol. 2599] July 18, 1928.

Mrs. M. C. Wrenn, Secretary, Charlotte Film Board of Trade, Charlotte, N. C.

DEAR MRS. WRENN:

Re: Marion, S. *D.*

After carefully considering the facts set forth in your letter of July 5, 1928, I have reached the conclusion that the claims against this exhibitor are much more flagrant than those made against the Bridge Theatre, Baltimore, Md., in which the Washington Board of Arbitration made an award of $1000.00 against the exhibitor.

I recommend that the Bicycling Committee be discharged from further consideration of this matter and that you, as Secretary of the Film Board of Trade and representing the Copyright Protection Bureau request the exhibitor to call upon with a view of arriving at an amicable adjustment of the claims against him and that not less than the sum of $500.00 be accepted in settlement thereof.

Upon the refusal of the exhibitor to settle these claims, please advise this office so that the Home offices of the members concerned may be requested to instruct their representatives in Charlotte to file claims against the exhibitor before the Board of Arbitration.

It seems to me that a settlement of these claims or their determination by the Board of Arbitration must be had as merely warning the exhibitor not to repeat his acts will have no effect.

Furthermore, unless this is done he will be enabled to carry out all of his unplayed contracts under what he claims in his present arrangement, which may run into the late part of next year; and there will be no way of compelling this exhibitor to enter into contracts for the pictures exhibited at his theatre for colored people, a permission which should not be evidenced by verbal promises or letters.

I am opposed to sending to all exhibitors a letter such as you suggest as it would place the members of your Board in the position of condoning all previous acts of exhibitors in violation of their contracts, therefore do not send such a letter.

Sincerely yours, Gabriel L. Hess, General Attorney.

19:18

[fol. 2600] December 14, 1928.

Mr. Sam Morris, Warner Bros. Pictures, Inc., 321 West 44th Street, New York.

DEAR MR. MORRIS: No doubt you will be interested to learn that the claim of Vitagraph against A. C. Tiffany, Casino Theatre, Mackinaw City, for bicycling your picture The Bush Leaguer and exhibiting it at the Capitol Theatre, Carp Lake, Mich., was dismissed by the Detroit Board of Arbitration upon the evidence of the exhibitor who produced the following letter written and signed by R. F. Cloud, your Assistant Manager:

"Feb. 29, 1928. Dr. Tiffany. Mackinaw City, Michigan

This is your authority to use pictures sold on contract #7044 at Carp Lake one day, if desired.

Signed, Warner Bros., R. F. Cloud, Ass't. Mgr."

I wonder if you or your contract department knew of the existence of this letter.

In connection with this claim you should also know that when the operations of this exhibitor were being investigated your Detroit Office reported in writing that the exhibitor had no privileges not mentioned in your contract, that no pictures were being delivered to the Capitol Theatre at Carp Lake, and that no contract for that theatre had been entered into.

Sincerely yours, Gabriel L. Hess, General Attorney.

19-31

[fol. 2601] April 11, 1928.

Mr. S. F. Juergens, Tiffany Productions, Inc., 1542 Broadway, New York, N. Y.

Dear Mr. Juergens: The following is an excerpt from my letter of March 14th, 1927 to all General Sales Managers:

"At the meeting of the General Sales Managers it was agreed that the cost of operating the bureau for a period of one year be limited in accordance with a budget that was submitted, to $20,000, to be borne by the Distributors concerned as follows:

Beginning March 1, 1927, all sums received by each distributor in payment of awards upon or compromises of "bicycling" or "switching" claims to be marked as such by your Branch Managers, and when received by your office to be paid to the "Copyright Protection Bureau." After $20,000 is thus received, all sums thereafter received will be repaid to each Distributor concerned at regular intervals after receipt by the Bureau in the proportion that the total amount so received from each Distributor bears to the total amount so paid by all Distributors. That is to say, if the total amount received by the Bureau is $100,000, and the amount so paid to the Bureau by a Distributor totals $10,000, one-tenth of the total amount to be repaid all Distributors concerned.

Please advise your Accounting Department to this effect and to make payments of all moneys received on account of all "bicycling" claims to the Bureau.

At a meeting of the General Sales Managers held on December 15th, 1927 at the Union League Club, I reported a summary of the cash receipts and disbursements from the inception of the Bureau to date showing a cash balance of $8,835.70 and a proposed operating budget for the year 1928 of $27,090.00.

I suggested that a dividend be then declared but it was proposed, seconded and unanimously agreed that the fund be left intact to continue the Bureau's operations—the budget being passed in view of the fact that no assessment upon the companies was contemplated because expenses would be met out of collections.

Sincerely yours, Gabriel L. Hess, General Attorney.

31:26.

[fol. 2602] October 31, 1928.

Mr. J. C. Hester, Broadway Theatre, Danville, Virginia.

Dear Mr. Hester: Mr. Fitzgerald, Secretary of the Washington Film Board of Trade, has written to us in your behalf, recommending the acceptance of your offer to pay the sum of $150. in full settlement of the claims of several distributors against you arising out of the unauthorized exhibition by you of their respective pictures at the Hippodrome Theatre, Danville, Va. for a long period of time prior to May 1928.

Great weight is always given to any recommendation made by the Secretary of a Film Board of Trade, particularly to any made by Mr. Fitzgerald, and we would be very reluctant to disregard his recommendation in this case, were it not for the fact that our investigation discloses that the total of all the claims of the distributors concerned represents a very small part of the sums they would have received had you contracted for pictures which you exhibited at the Hippodrome Theatre without their permission or authority. Accordingly, we must reject your offer.

If you are willing to pay in settlement of these claims the sum of $500. we will be pleased to recommend to the distributors concerned the acceptance of that sum. Otherwise, we will have no alternative other than to recommend to them that they file their claims for determination by the Washington Board of Arbitration, and to take such other proceedings as they may be advised are necessary to recover the damages suffered by them.

Awaiting your reply, we are

Yours very truly, Gabriel L. Hess, General Attorney.

19:31.

(Copy to Mr. Fitzgerald.)

[fol. 2603] Nov. 14, 1928.

Mr. James B. Fitzgerald, Washington Film Board of Tr., 805 5th Street, N. W., Washington, D. C.

Mr. J. C. Hester, Danville, Va.

Dear Mr. Fitzgerald: This is to acknowledge receipt of your letter of Nov. 12th enclosing check payable to the

Copyright Protection Bureau in the sum of $350.00 dated Nov. 10th, 1928, in payment of claims by several distributors against Mr. J. C. Hester operating the Hippodrome Theatre, Danville, Va., in that the exhibitor without contract therefor and without consent or permission publicly exhibited for profit certain of said copyrighted photoplays at places other than said theatre.

The practice of exhibitors showing pictures without contract therefor and without consent or permission at theatres other than the one mentioned above, gives rise to a claim of violation of the Copyright Law of the United States and damages, must be checked and stamped out. If it is not, the loss now suffered by distributors will undoubtedly grow to such proportions that it will materially affect their revenue.

It is only because of your strong recommendation that the sum of $350.00 enclosed in your letter is accepted in full settlement of the claims.

Sincerely yours, Gabriel L. Hess, General Attorney.

26:N.

[fol. 2604] May 9, 1928.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 5th Avenue, New York City, N. Y.

Dear Mr. Hess: Responsive to your favor of May 8th requesting information on the Jamestown Theatre, Smithfield, Va., wish to advise that I am sending you herewith, correspondence from the file.

The evidence was a personal investigation by Mr. Groves and affidavit Garsaway Foster, a colored boy who was employed by Mr. Levine to make this investigation.

The complaint was originally scheduled for March 2nd and the Exhibitor requested a continuance which was granted and he was advised that the case would be heard on March 16th. The Exhibitor wrote in under date of March 5th, advising that it would be impossible for him to come to Washington before the latter part of March or the first part of April. I recall that at the time, I referred the letter to Mr. Levin and he stated that the Exhibitor had

had one continuance. We held a Special meeting on March 9th and permitted this case to go over until the 16th.

During the week of March 16th Mr. Levine left Washington and had not returned on March 15th at which time I requested Mr. Groves to wire Mr. Levine, that if he did not appear for the hearing Friday and the exhibitor from Smithfield appeared the case would go by default. Mr. Levine replied by night letter, copy enclosed herewith, which did not arrive in ample time to prevent the Exhibitor from appearing.

The Exhibitor fooled us by appearing and there was no one to present the case because no one was familiar with the evidence which Mr. Levine had. I knew that if the Exhibitor appear- and requested that his case be heard the Board would render an award in favor of the Exhibitor, possibly give him his expenses. I spoke to Mr. Smeltzer and told him that the Exhibitor was here and Mr. Levine was out of town and there was no one to present the case and Mr. Smeltzer replied, "Well, I am going to withdraw my case because I just learned that my salesman gave the Exhibitor permission to use the pictures in the Elks Hall" —so I approached the Exhibitor and told him that he would not have to wait around for the hearing of his case and I would arrange to take care of it.

[fol. 2605] When I called the Calendar and came to the cases of Paramount Famous Lasky Corp., First National and Pathe against G. Hunter Jordan of Smithfield, Va. I marked them "withdrawn." Mr. Smeltzer then spoke up and said he did not want his case withdrawn, he wanted it recorded as "Dismissed" for the reason that his salesman had told him that he gave the Exhibitor permission to use the pic*ut*res in Elks Hall and acting as representative of Pathe he would dismiss the Pathe case for the same reason. Mr. Hunter refused to dismiss his case, stating that he wished the right to talk to his salesman. Accordingly, the cases of First National and Pathe were marked "Dismissed," and Paramount "Withdrawn."

Subsequently, Paramount filed a complaint against the Exhibitor and in reply to the complaint the Exhibitor forwarded an affidavit under date of April 23rd, enclosed herewith.

I believe that this covers the matter in its entirety.

Sincerely yours, (Signed) James B. Fitzgerald.

JBF/ms
encs.

[fol. 2606] May 12, 1928.

Mr. Ned Depinet, Gen. Sales Mgr., First National Pictures, Inc., 383 Madison Avenue, New York, N. Y.

Re: Jamestown Theatre, Elks Hall, Smithfield, Va.

DEAR MR. DEPINET: During the period of investigation of the Copyright Protection Bureau in the territory supplied out of Washington, D. C., upon information obtained that the Jamestown Theatre was bicycling prints of features and short subjects which had been contracted for only one theatre, the Bureau followed the usual procedure, interviewed all of the members of the Washington Film Board of Trade and thereafter, in a reconstruction of the theatre's bookings, disclosed no contracts giving the exhibitor the right to show pictures at the Elks Hall, catering to the colored population of the town.

The companies involved were Paramount, Pathe and First National.

Although the contracts in each instance read "one or two days," the policy of the Jamestown Theatre during the period of investigation was found to be "Open Friday and Saturday," showing the same picture on both days. At quite some expense to the Bureau, it was necessary to engage a colored man from Washington to assist in making the investigation of the colored house the same night that the Smithfield Theatre, catering solely to the while people, was watched. The result of this investigation, both from evidence furnished by people in the town and obserevation of the screen, disclosed the entire program shown Friday and Saturday in the Jamestown Theatre under a contract reading "one or two days" was also exhibited Friday night of each week at the Elks Hall, the colored theatre.

The Bureau, in the general course of its business, requested the exhibitor to call to discuss the case with a view of making a settlement and also to induce the exhibitor to properly contract pictures for the colored house.

The exhibitor acknowledged a communication of the Bureau by his presence and at first denied he had any connection with this colored theatre or even knew of its existence. When confronted with the evidence, he then fell back upon the usual excuse—that he had your salesman's permission. He stated that some two and one half years ago he was given permission to show the same pictures every Friday night in the colored house contracted only at the Jamestown Theatre and that if he found the arrangement profitable, he would then contract for pictures for the colored theatre.

From the investigation and the statements of the exhibitor almost two and one half years have gone by and although continuing to show pictures in the colored theatre [fol. 2607] without a contract, he is still "finding out" if it is advisable for him to purchase pictures for the colored theatre.

Thereafter the Bureau requested and received claims from First National, Paramount and Pathe for the bicycling of their pictures. The exhibitor requested and was granted several postponements. While Mr. Levin was in the Philadelphit territory, the exhibitor, although requesting a postponement, prepared to defend his case. The Secretary of the Board of Arbitration, having received Mr. Levin's wire stating that in view of the exhibitor's request for a postponement, Mr. Levin would not be in Washington that day, advised the exhibitor that the case would not be heard. To the surprise of the Bureau and the Secretary, your Washington Branch Manager demanded that First National's case be withdrawn and dismissed and also stated that he acted as a representative for the Pathe exchange and asked for a dismissal of Pathe's claim. He also urged the representative of the Paramount Famous Lasky Corp. to dismiss his complaint but this Mr. Hunter of Paramount refused to do.

The exhibitor in an affidavit dated April 23, 1928 submitted to the Joint Board of Arbitration stated:

"About 5:30 the same day (April 23, 1928—the day of Arbitration), Mr. Smeltzer, who was at the meeting of the Board of Arbitration, advised me that everything had been

disposed of in my case and that he had urged the Board to allow my expense for the trip to Washington, as it had been proven before the Board that I had not deliberately or knowingly done anything wrong. However, the expenses were not approved.

although the case had not been heard by the Board and the case of Paramount versus Jamestown Theatre is still pending.

I am giving you the information for such action as you may be prompted to take in the matter.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol. 2608] Copy

First National Pictures

Smithfield, Va.

May 19, 1928.

Mr. Gabriel Hess, Copyright Protection Bureau, 469 Fifth Ave., New York City.

DEAR GABE: Herewith copy of a letter that I have today received from our Washington Branch Manager, Bob Smeltzer, giving further details regarding the Smithfield, Virginia matter.

The facts presented by Mr. Smeltzer throw some new light on the situation, and I believe that in fairness to him you should read his letter very carefully, and if you feel as we do here that he acted in all good faith in the matter I wish you would so advise me.

Cordially yours, (Signed) A. W. Smith, Jr., Sales Manager.

AWS:HOK

[fol. 2609] Copy

First National Pictures, Inc.

Washington

May 17, 1928.

New York Office, Mr. A. W. Smith, Jr.:

In response to your letter of May 14th relative to the Copyright Protection Bureau versus Town Hall, Smithfield,

Va., let me give you as briefly as possible full details of the matter.

To digress for a moment, our company thru its representative is partly responsible for Smithfield having a theater, inasmuch as prior to our salesman, Henry J. Lego, visiting that town in a check up of his entire territory, an exhibitor by the name of L. W. Janes at Dendron, Va., had been occasionally showing pictures in Smithfield without the knowledge or consent of the distributors from whom he secured service in Dendron, and without knowledge of anyone connected with the distributing end of the business in the Washington territory.

On or about August 1st, 1925 Lego sent us in a report relative to Smithfield to the effect that he was endeavoring to get a man by the name of — Hunter Gordon interested in showing pictures in Smithfield. Another report on or about September 1st, 1925 discloses the fact that he, Lego, had succeeded in sufficiently interesting Jordan to the extent that Jordan was negotiating for a couple of projection machines. Finally Jordan opens the Town Hall and is sold service by First National and Universal Pictures. According to investigation made, we find that Lego made the suggestion to Jordan of taking over the Elk's Hall, inasmuch as the Town Hall could not be used for showing to a part of the audience colored, and using the same picture in the Elk's Hall that he was showing on the same day at the Town Hall, as no facilities could be had at the Town Hall for such a showing, and in view of the fact that he, Lego, appreciating the fact that Jordan could not stay in business unless the returns justified a continuation of his operation already started, and which had not up to the time of the suggestion by Lego, been profitable.

We now come to Friday, March 16th, 1928, at which time was the first opportunity the writer had of meeting and talking with Jordan, altho it was my understanding that he had previously visited Washington in response to a letter sent him by Jack Levin of the Copyright Protection Bureau. When he comes into the office on Friday morning, March 16th, and we discussed the matter in detail as to the use of these pictures in both the colored and white houses, Jordan was told by the writer to go to the Arbitration

Board and present to said Arbitration Board a clear statement of truths and facts in the entire case. Being a member of the Arbitration Board I arrived there in advance of the time set for the meeting and saw Jordan in conversation with Mr. Fitzgerald, Secretary of the Film Board of Trade as also the Joint Board of Arbitration. I was then apprised by Mr. Fitzgerald that Mr. Levin was not to be present at this meeting, and inasmuch as my company was one of the plaintiffs under the case filed by the Copyright Bureau, asked Mr. Fitzgerald what action should be taken, explaining incidentally to him all of the statements above mentioned in this letter relative to Lego and his knowledge of the condition in Smithfield. Under the circumstances there was only one thank necessary to do and which was done, with the consent of Mr. Fitzgerald, to withdraw our claim against this exhibitor, which likewise was done by the Pathe Exchange, Inc. However, the latter company was not influenced in any manner whatsoever in reaching its decision.

[fol. 2610] First National Pictures, Inc.

May 17, 1928.

Mr. A. W. Smith: In Mr. Hess' letter to you he quotes from affidavit dated April 23rd, submitted to the Joint Board of Arbitration, but did not give you the complete affidavit, which we are attaching herewith, and in which you will note in the third paragraph of said affidavit that Jordan was questioned by Mr. Fitzgerald at his office prior to the Arbitration Board convening at 2:00 P. M.

There was at the Arbitration Board some question as to the paying of expenses of the exhibitor for that particular trip (March 16th), this suggestion not emanating from the writer, but from one of the exhibitor members of said Arbitration Board.

We are likewise attaching herewith a copy of letter addressed to the Joint Board of Arbitration under date of April 9th, and which is self explanatory.

In conclusion, let me state that ever since my connection with the motion picture industry I have always taken a very active interest in the operation of Film Boards of Trade and Boards of Arbitration, having acted as a member of

the Board of Arbitration consistently for the past five years, either as an arbitrator or alternative, doing everything within my power to correct the evils which had infested the industry, and on more than one occasion being challenged by exhibitors in the territory who felt that I could not dissuade by any sentiment in their favor on cases that had been brought against them, likewise, I believe that the first Board of this kind started in the United States had its inception in Washington, D. C., approximately eleven years ago, and was voluntary on the part of some of the well known exhibitors of that day and interested exchange men, trying to place the industry on a higher level, and correcting the evils of bicycling, holding out films, switchings, etc.

Therefore, it is not quite natural to assume that I would be extremely interested in the work being done by the Copyright Protection Bureau?

Kind regards.

Very truly yours, (Signed) Robert Smeltzer, Exchange Manager.

[fol. 2611] June 24, 1928.

Memorandum to Mr. Hess:
Re Smithfield, Va.-First National.

In answer to Page one, Paragraph 3 of Mr. Smeltzer's letter of May 17, 1928, the colored house has been operating since 1925. Does a verbal promise made by a salesman in 1925 still hold good in 1928?

In answer to Page One, Paragraph 4, asking the exhibitor to go before the Board of Arbitration and give it a "true statement of the facts" concerning his own company doesn't smack of cooperation with the Bureau.

In answer to Page One, Paragraph 4, third line from the top, the word "withdraw" is used but instead the Exchange man insisted that it be dismissed.

In answer to the sentence which begins on the second line from the end of Paragraph 4, he doesn't state Pathe representative was not present and that he, Smeltzer, acted for Pathe also demanding that Pathe's case be dismissed stating that he was acting for the Pathe representative, Mr. Robbins.

Mr. Smeltzer at the hearing asked Mr. Hunter of Famous Players, one of the three distributors who submitted their claims, to dismiss but Mr. Hunter refused to do so in the absence of the Bureau.

It is well to note at this time that the Secretary of the Film Board of Trade, Mr. Fitzgerald, later stated that he was astounded at the action taken by Mr. Smeltzer in the absence of the Bureau.

In answer to Page 2, Paragraph 2, by insisting and demanding a dismissal of their case instead of a withdrawal, Mr. Smeltzer almost obtained for the exhibitor $35.00 for expenses, which, incidentally, First National would have had to pay.

A reference in the concluding paragraph of your letter upon the thought that in any event, the least Mr. Smeltzer could have done was to have shown the Bureau the courtesy of interviewing Mr. Levin before taking this action and under no circumstances should he have represented Pathe.

Jack Levin.

[fol. 2612] June 5, 1928.

Mr. A. W. Smith, Jr., Sales Manager, First National Pictures, Inc., 383 Madison Avenue, New York City.

Re: Smithfield, Va.

Dear Andy: I read the copy of the letter you received from your Washington Branch Manager concerning the Smithfield, Va., matter.

Frankly the statements made by Mr. Smeltzer in his letter to you do not throw any new light on the situation nor do I believe he acted in good faith.

Mr. Smeltzer's justification is wholly based upon the claim that a verbal promise made by a salesman in 1925 still holds good in 1928.

The First National claim against the exhibitor was not withdrawn but dismissed because of Smeltzer's insistence that it be dismissed, placing First National in a position where it was liable to pay the expenses of the exhibitor's trip to Washington.

Pathe's representative was not present as Mr. Smeltzer would have you infer but Smeltzer took it upon himself to

represent Pathe. Furthermore, Smeltzer studiously avoided stating to you that at the hearing he requested Mr. Hunter of Famous Players to consent to a dismissal of the Famous Players' claim but that Mr. Hunter refused to do so in the absence of a representative of the Copyright Protection Bureau.

In conclusion the least that Mr. Smeltzer could have done would have been to permit the hearing of First National's claim to be adjourned until the Copyright Protection Bureau's representative could be present, all of which leads me to the conclusion that Mr. Smeltzer is not fully cooperating in the work of the Copyright Protection Bureau.

Sincerely yours, Gabriel L. Hess, General Attorney.

19:18.

[fol. 2613] First National Pictures, Inc.

June 6, 1928.

Mr. Gabriel Hess, Copyright Protection Bureau, 469 Fifth Ave., New York City.

Dear Gabe, Smithfield Va.: I cannot agree with your conclusions in the Smithfield, Virginia, matter, as disclosed in your letter of June 5th.

I am having Mr. Smeltzer of Washington come in here shortly and I'll greatly appreciate it if you give him about ten minutes of your time.

Cordially yours, (Signed) A. W. Smith, Jr., Sales Manager.

AWS:HOK

[fol. 2614] Dec. 14, 1928.

Mr. John D. Clark, Sales Manager, Division #3, Paramount Famous Lasky Corp., 1501 Broadway, N. Y. C.

Dear Mr. Clark: This is in reply to your letter of Nov. 30th, 1928, enclosing a letter from your Minneapolis Branch Manager concerning the theatres located in Bowesmount & D rayton, N. D.

If the distributors await the time when only great damage is suffered by them before proce-ding against exhibi-

tors who bicycled their pictures, or after calling to the exhibitors attention his conduct in exhibiting their pictures at a theatre without contract therefor, accept contracts covering future business at such theatre, bicycling will be encouraged and continue to result in the abuses so prevalent in this regard at this time.

The mere acceptance of a contract would not deter this exhibitor from repeating his offenses with Paramount or any other product.

A thorough investigation should be made of this account to determine the extent of the practices engaged in by this exhibitor with respect to bicycling. This office is at present conducting such an investigation which, with the cooperation of all distributors will bring to light the exhibitor's course of conduct in respect to all pictures.

Invariably when an exhibitor is discovered bicycling his first excuse is that he did not know that he was doing anything wrong. Ignorance of wrong doing is not and should not be accepted as an excuse, particularly when the exhibitor knows it must be wrong act to exhibit a picture for which no contract is made.

Accordingly, I recommend that you advise your Branch Manager to refrain from communicating with the exhibitor in regard to showing your pictures at Bowesmount and also not to make any attempt to secure a contract for that town, until further advised by you.

Yours very truly, Gabriel L. Hess, General Attorney.

[fol. 2615] September 28, 1928.

Mr. J. R. Wilson, Gen. Sales Mgr., Educational Film Exchanges, Inc., 1501 Broadway, New York City.

Dear Mr. Wilson: The Copyright Protection Bureau is being handicapped in its work by the failure of some of the Branch Managers and especially bookers to appreciate the instructions heretofore given them by you to refrain from communicating with exhibitors who are suspected of or have switched, sub-rented, or held over pictures.

Immediately an exhibitor senses that his practices in such regard are known or suspected by an exchange, the Bureau finds from experience that its investigations are hampered and often completely blocked.

Accordingly, will you be good enough to again advise your Branch Managers to forthwith communicate to you for reference to the Bureau any evidence of switching, subrenting, or holding over, or a suspicion thereof which comes to their attention and to refrain from at any time communicating in such regard with any exhibitor unless specifically authorized by you to do so.

Your prompt compliance with this request will be appreciated.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol. 2616] Nov. 9, 1928.

Mr. Allen Cummings, Metro-Goldwyn-Mayer, 1540 Broadway, New York City.

Re: Mr. H. Heber, Mission & Sequoia Theatres, Sacramento, Calif.

Dear Mr. Cummings: Investigations by the Copyright Protection Bureau disclose that the exhibitor named in the enclosed complaints has shown some of your pictures at places other than at the theatre specified in the contract therefor (see copies attached to the complaints)—a practice indulged in by this exhibitor with respect to the pictures of all distributors.

Adopting the practice suggested at the meeting of the General Sales Managers held at the Copyright Protection Bureau offices complaints for filing with the Board of Arbitration on such accounts are enclosed herewith for the signature of the General Sales Manager of your Company,

Please add the official title of the executive signing the complaints returning them to me together with papers attached, as soon as possible.

Sincerely yours, Gabriel L. Hess, General Attorney.

Encs. (2)

[fol. 2617] Nov. 16, 1928.

Miss Clare Foley, San Francisco Film Bd. of Trade, 724 Golden Gate Bldg., San Francisco, Calif.

Re: Mission & Sequoia Theatres, San Francisco, Calif.

Dear Miss Foley: Attached is a letter addressed to you signed by Mr. Hess, with which is enclosed signed com-

plaints against Mr. H. Heber. Please immediately you receive these claims proceed in the usual manner, provided in the rules of Arbitration.

Please advise all your members and especially those involved in this case to the effect that if Mr. Heber or any person interested in the Mission Theatre communicates with them, offering to settle for any unauthorized exhibitions prior to Oct. 29th, 1928, that he be referred to you or directly to the Copyright Protection Bureau.

If it is the desire of Mr. Heber to amicably settle these claims you may negotiate with him for such settlement on the basis of two violations. In each claim for damages before the Board a request for a minimum of $250.00 for each violation is made. The total amount of the claims based only upon the period of our investigation total $500.00.

The Copyright Protection Bureau will recommend accepting the sum of $400.00 in settlement of these claims to avoid the necessity of appearing before the Board of Arbitration and presenting the evidence obtained during the course of its investigations.

This suggestion is made only in the event the exhibitor communicates with you.

Please keep us advisd of all developments until such time as each claim is definitely determined and disposed of.

Sincerely yours, J. H. Levin.

26:W.
enc.

[fol. 2618] Oct. 17, 1928.

Mr. Felix Feist, General Sales Manager, Metro-Goldwyn-Mayer Distributing Corp., 1540 Broadway, New York.

Dear Mr. Feist: Mr. Alan P. Cummings has advised me that you referred to the Cincinnati Branch Manager the complaints prepared by the Copyright Protection Bureau against the Pela Amusement Company before signing and returning them to this office. Since dictating this letter these complaints have been received at this office, and are going forward today to the Secretary of the Cincinnati Board of Arbitration for filing.

I desire to point out to you that by referring these complaints to your Branch Managers before signing them, you

will, in a measure, hamper and often block the work of the Bureau. These complaints are prepared upon evidence secured by the Bureau, often without the knowledge or assitsance of the Branch Managers, and they are submitted for signature of a home office executive to avoid involving the Branch Managers or calling upon them to be concerned therewith unless proceedings are necessary before the Board of Arbitration.

I am sure you realized that if these complaints are first referred to the Branch Managers it is likely that the exhibitor will be apprised of the existence of the complaint and will cause him to immediately make an effort to cover the acts upon which the complaints are founded.

Accordingly, I strongly urge that in the future these complaints should be signed by you without first referring them to any of your Branch Managers.

Sincerely yours, Gabriel L. Hess, General Attorney.

—:31

[fol. 2619] Nov. 20, 1928.

Mr. Sam E. Morris, Warner Bros. Pictures, Inc., 521 West 44th Street, New York.

Dear Mr. Morris: With further reference to your claim against the Pela Amusement Company, operating the Monte Vista Theatre Pleasant Ridge, Ohio, Lyric Theatre, Emery Theatre, Reading, Ohio, and Pendrola Theatre, Lockland, Ohio, in connection with which you recently signed a complaint which has been filed for determination by the Cincinnati Board of Arbitration, the Secretary of the Cincinnati Film Board of Trade reports that Mr. Elmer Shard, one of the executives of the Pela Amusement Company called upon her and admitted playing Jaws of Steel on July 14th at the Pendrola Theatre, and on July 15th at the Lyric Theatre, having received authority from the Exchange to exhibit the picture at both of these theatres, although your contract provides for its exhibition at only one theatre; that after Mr. Shard left her office she talked with your Mr. Tiejen who stated that he had given Mr. Shard such permission. Accordingly, we recommend that your claim in this regard be withdrawn.

With respect to The Jazz Singer, Mr. Shard claims that he exhibited the picture in accordance with a telephone conversation he had with your Mr. Tiejen. He stated he did not sign a contract for The Jazz Singer, but ordered it over the telephone, and up to this time has not received a signed contract therefor. Likewise, we recommend that your claim in this regard be withdrawn.

The foregoing is called to your attention for such action as you may care to take in the matter.

Sincerely yours, Gabriel L. Hess, General Attorney.

19:31.

[fol. 2620] Copy

Nov. 22, 1928.

Mr. Ned Depinet, First National Pictures, Inc., 383 Madison Avenue, New York.

Dear Mr. Depinet: I have before me a copy of your Cincinnati Branch Manager's letter of October 26, 1928, to Mr. Elmer Shard, Monte Vista Theatre, Cincinnati, in which your Branch Manager advises the exhibitor that the "Patent Leather Kid" was shown at the Emery Theatre on October 23, 24 and 25, and also at the Pendrola Theatre on October 24 in violation of your contract for the picture for only one of these theatres.

Since August of this year we have been investigating the practices of this exhibitor and upon the evidence disclosed have prepared a number of claims against him which are now pending before the Cincinnati Board of Arbitration among which is one of your company.

If Branch Managers persist in communicating with exhibitors concerning bicycling or using pictures for more days than contracted for, the work of the Copyright Protection Bureau will be materially interfered with. The letter of your Cincinnati Branch Manager above referred to is typical of what should not be done in these cases.

You will remember I wrote you on September 28, 1928 asking you to instruct all of your branch managers not to communicate with exhibitors at any time in regard to bicycling or holding out pictures, without first securing the approval of your office. If you have not sent such instruc-

tions to your branch managers will you be good enough to do so now, and if you have sent the instructions, please repeat them to your Cincinnati Branch Manager.

Sincerely yours, Gabriel L. Hess, General Attorney.

19:31.

[fol. 2621] #270

Memo to Mr. G. L. Hess

Nov. 28, 1928.

Re: Pela Amusement Co., Metro Branch Manager report.
For special attention of GLH:

The attached is a copy of a letter submitted by Mr. E. M. Booth, Cincinnati Branch Manager for Metro Exchange with reference to claims previously submitted by Metro for the switching and holding over of its pictures by the exhibitor, Mr. Elmar Shard.

These claims in addition to Pathe, United Artists, First National are scheduled to be heard before the Cincinnati Board of Arbitration, Dec. 3rd. Warner Bros. was also scheduled but because of the last minute alibi offered by the Branch Manager with respect to verbal agreements was compelled to be cancelled out.

The Metro letter of the Branch Manager attached evidently is intended to forestall that company's claims being brought by inferring that the present Branch Manager of Metro was present at the time the contract in question was taken, and in addition to which a verbal understanding was made between the parties concerned.

At the time these matters were taken up you communicated with Mr. Rogers who personally advised you that the company had no record of any of their pictures being permitted to play in the town of Lockland. Before proceeding with this case we submitted a set of yellow sheets, the originals herewith attached which were sent to the Metro branch in Cincinnati, and I refer your attention that portion of the form which reads "What are the privileges if any, not mentioned in the contract". The reply on every one of the five forms was "none".

I am attaching letter sent you under date of Oct. 10th signed by Mr. Cummings, which was in answer to your letter of Oct. 9th. Your letter of Oct. 9th also attached was a follow-up of your letter of Oct. 1st to Metro requesting that they return the claims properly signed.

On Oct. 16th Metro submitted to your office the complaints against the above theatres properly signed. All of the complaints were thereafter sent to the Secretary, a copy of which was given to each of the respective managers of the Branch offices concerned. This took place on or about Oct. 20.

When the exhibitor received these complaints he called at the office of the Film Board Secretary, a report of which conference was submitted by the Secretary, which report is also herewith attached.

It is evident from the letter sent on Nov. 15th to Metro's Home Office from the Branch representative that a conversation took place between Metro's Branch Manager and the exhibitor practically four weeks after the Home Office of Metro communicated with its Manager concerning whether or not Metro claims should be filed.

Further note: In addition to all of this, I call your attention to the last paragraph of Page 1 of the letter addressed to Mr. Rogers under date of Nov. 15th from their Branch Manager in which is listed three pictures, Garden of Allah, Latest from Paris, Man, Woman & Sin. When the exchange attempted to obtain a play date on these pictures (which attempt was made on or about Nov. 15th) the [fol. 2622] exhibitor confessed that he played these three pictures during the months of April, May & July, and that now that it was called to his attention he is willing to pay for these in accordance with the contract prices.

Tactics such as these on the part of the exhibitor most certainly prove our contention that the exhibitor is "crooked", and that he is also attempting at this late date to prevail upon several managers whose companies are involved to backwater on the whole issue.

I believe if at this late date Branch Managers are permitted to cancel out claims such as these, merely at the request of the exhibitors, that the effort and energy expended by the Copyright Protection Bureau with the earnest co-

operation of the Home Offices will have been materially interfered with and wasted.

J. H. Levin.

26: W.

[fol. 2623] Copy

Memo to Mr. G. L. Hess #271

Nov. 28, 1928.

12:10 noon, November 28th, Re: Pela Amusement Co.

Long distance telephone communication from Secretary Re: Action of Metro Branch Manager requesting postponement.

This office received a long distance communication from the Cincinnati Secretary after the attached report was completed.

The nature of the conversation had with the Secretary substantiates the report as outlined by this office with reference to the Metro claims.

The Secretary advised that a letter was received at the Film Board of Trade this morning signed by Mr. Booth, Branch Manager of the Cincinnati Metro office requesting a postponement of their claims which are due to be heard Monday, Dec. 3rd, against the Pela Amusement Co. before the Cincinnati Board. The reason given by the Manager for requesting this postponement was to the effect that he now remembers that it is possible that the previous exhibitor (who has since died) may have been under the impression that Metro product could have been used at the theatre in the town of Pendrola without payment.

The Secretary advised that the reason for this request for a postponement on the part of the Branch Manager was because of a visit by the exhibitor to the Metro Exchange and the discussion had between Mr. Booth and the exhibitor although all Branch Managers were notified not to discuss these claims in any way with the exhibitor.

It appears to the Secretary that since Metro's Branch Manager received notice of this complaint almost five weeks ago that some pressure has been brought to bear practically

four days before the case is to be heard in order to block the Metro Home Office from securing a verdict.

Quoting the Secretary, "The action on the part of the Metro Branch Manager is plainly a case of cold feet".

Request for advice: The Secretary desires to know the status of the Metro case with reference to how to treat the postponement requested by Metro, without any right or privilege secured from the Metro Home Office.

J. H. Levin.

26:W

[fol. 2624] Copy

From E. M. Booth, Cincinnati. Subject, Film Board Complaint—Pela Amuse. Co. To Mr. W. F. Rodgers, New York.

November 15, 192[illegible].

Dear Mr. Rodgers: The Pela Amusement Co. operates the Monte Vista Theatre, Pleasant Ridge Co., the Lyric and Emery Theatre, Reading, O. and the Pendrola Theatre, Lockland, Ohio.

This is the complaint that you signed and refers to the playing of pictures in theatres for which we hold no contracts. I have gone into this matter very thoroughly and while I feel that Mr. Elmer Shard, now operating these contracts, is guilty of a technical violation, I do not believe that morally he erred.

Here are the facts which pertain particularly to the theatres in Reading and Lockland: Prior to the 1927-28 season this account was sold on a one-contract basis covering three theatres they own in what I would term one zone, viz. the Lyric and Emery and the Pendrola. While the Lyric and Emery are both in Reading and the Pendrola in Lockland, there are only four blocks between the Lyric and Pendrola Theatres. The Emery is located between the two; so the Lyric is just two blocks from the Emery and the Pendrola is two blocks from the Emery, the Emery and Pendrola being the first run houses in this zone and the Lyric being second run.

I assisted Mr. Bugie in consummating a deal with Mr. Weinig who since has died, for our 1927-28 season's prod-

uct at which time I told him we most certaintly must have a contract covering all theatres in which the pictures play, so we drew up two separate deals, one for the Emery first run and for the Lyric second run. The Pendrola was not mentioned during this transaction.

Whether Mr. Weinig was under the impression he could play pictures first run in either the Emery or Pendrola I do not know, but I find that this has been for a number of years a past practice that they play pictures in either the Emery or Pendrola, and if he would play a first run at the Emery and repeat it second run at the Pendrola, then this automatically disposed of the second run booking at the Lyric.

At the time I negotiated this deal with Mr. Weinig I was not familiar with the situation but this year our contracts read Emery or Pendrola Theatres and he thoroughly understands he has a right to play in either one or the other but not in both. Later we will negotiate a second run contract for his Lyric Theatre.

So when I again say that technically he was wrong in playing pictures in theatres which were not listed on his contract, still I do not believe that Mr. Shard did this maliciously for the fact that it had been past practice, and the fact that it did not hurt us financially, if it is agreeable to you I would recommend that we withdraw our complaint.

Mr. Shard called up on November 8th and submitted dates for the Lyric. We requested play dates on Garden of Allah, Latest from Paris, and Man, Woman and Sin, [fol. 2625] which according to our records were undated. He advised he had played these pictures on May 16th, July 17th and April 18th respectively, and is willing to pay for these in accordance with contract terms. I have not billed him, nor do I want to make any settlement until the matter now pending before the Joint Board of Arbitration has been disposed of.

The trouble in the past has been that when Mr. Shard would date pictures for his three theatres he would give us a two day date for the Emery and play it one day at the Emery and one day at the Pendrola which, as referred to above, would automatically dispose of his second run at the Lyric.

After many conferences with Mr. Shard I believe he is perfectly innocent in what he did and I will be governed by your decision in the matter.

Very truly yours, (Signed) E. M. Booth, Resident Manager.

[fol. 2626] Metro Goldwyn Mayer Pictures

Nov. 23, 1928.

Mr. Gabriel Hess, Copyright Protection Bureau, 469 Fifth Avenue, New York City.

Dear Mr. Hess: Please note the attached, which is a copy of the letter received from Mr. E. M. Booth, our Cincinnati Manager.

Will apreciate your letting us hear from you about this matter.

Best wishes.

Yours very truly, (Signed) A. F. Cummings.

AFC:E.
encl.

[fol. 2627] =294

Memo to Mr. G. L. Hess

Dec. 5, 1928.

Re: Hampering of Copyright, Pela Amusement Co. vs. Warner Bros., verbal agreement in addition to poorly written contract. Cincinnati Board.

I believe it should come to your attention of the reaction of an agreement of this kind towards the claims of other companies when tried before Boards of Arbitration.

In this case owing to the booking sheet previously submitted to the Exchange on which was noted "no agreements entered into other than as stated in the contract" we requested and received a complaint signed by Mr. Morris which was calendered for Arbitration.

The exhibitor was duly notified by the Secretary and as was previously stated at the last moment it was discovered that the Branch Manager was responsible for in one instance submitting a contract to his Home Office containing the signature of the exhibitor which was not signed by the

Exhibitor but by a representative of the exchange on an order taken over by telephone.

The other instance was where the Jaz Singer was sold to the Exhibitor for two days on contract and was exhibited four days, two extra days being verbally agreed upon between the Manager of the Exchange without the knowledge of the Home Office.

Before the Board it so happened that the Warner case was the first one to be called, and which we were compelled to state that in behalf of the distributor the case was "withdrawn." The exhibitor used every conceivable argument for the reason for the withdrawal to be made before the Board of Arbitration, which of course would have been to the effect that a verbal agreement was recognized, and secondly that a contract was taken by telephone and the exhibitor's name signed by someone else.

We were successful in claiming that it was not necessary to state our reasons for the withdrawal.

During the course of trying the other cases the exhibitor from time to time made reference to the Warner claim and attempted to continually impress the Board of Arbitration with the fact that the other companies claims we were presenting had the same tinge of private deals with the exhibitor.

I call this matter to your attention from the angle of how a verbal agreement entered into with a representative of one company is used as a wedge by an exhibitor to becloud the issue of other companies' claims.

J. H. Levin.

26:W.

[fol. 2628] #310

37 Memo to Mr. G. L. Hess

Re: Detailed report by JHL of the Arbitration Award hearing in re Pela Amusement Co., Cincinnati Board.

Pursuant to our conversation I am attaching a report covering the preparation of this case and the final outcome. This case is unusual in that it was the largest award ever received before a Board of Arbitration in the United States and further that a case as difficult as this was taken up, prepared and completed from the New York office of

Copyright Protection Bureau without the necessity of directly investigating in the towns and theatres operated by the Pela Amusement Co.

J. H. Levin.

26:W.

[fol. 2629] Dec. 6, 1928.

Gabriel L. Hess, Esq., Film Boards of Trade, 469 Fifth Ave. New York City.

My Dear Mr. Hess: After the awards for Thirteen Thousand Dollars were rendered by the Cincinnati Board of Arbitration against Mr. Shard and the Pela Theatres Co., Mr. Shard approached me for settlement. There was present Mrs. Wernke, the aged widow of Mr. Shard's partner. They pleaded total inability to meet the awards. I suggested that I might recommend a settlement for Seventy-five Hundred ($7,500) Dollars, if this offer were made to me immediately. Mr. Shard was unable to accord with this suggestion.

Yesterday, there was delivered to me a letter from Mr. Burkan's office informing me that Mr. Shard had called upon Mr. Burkan in person to represent him in this matter. After a talk with Mr. Froelich, Mr. Shard came to my office. The result of our conference was the agreement to settle the entire matter for Ten Thousand ($10,000) Dollars and Mr. Shard left with me six checks, one for Five Thousand Dollars, payable today, and five additional checks, each for One Thousand Dollars, payable monthly thereafter.

I have no hesitancy in recommending this settlement.

In all copyright cases, the actual money received in settlement seems to me to be insignificant in comparison to the potential sales which are created by a favorable decision. In this instance, a ten year practice has been broken up and the exhibitor will immediately contract for product at theatres for which formerly he never made purchases.

From any viewpoint, however, a settlement of Ten Thousand Dollars is a substantial sum in view of the fact that the contract prices of the photoplays involved in the relations did not amount to more than Three Hundred Dollars.

I am enclosing stipulation of settlement for your approval which I intend to have Mr. Shard sign and will also write him a letter to the effect that providing there are no

further violations on his part, no other claims of this nature will be pressed against him.

Sincerely yours, (Signed) Louis Hizer.

LN:c.

[fols. 2630 & 2631] Monte Vista Theatre

Pleasant Ridge, Cincinnati, O., 12 7 1928.

Copyright Protection Bureau, New York, N. Y.

GENTLEMEN: I wish to thank you folks for courtesies extended during our recent difficulty.

I also wish to command Mr. Nizer and Mr. Hess for gentlemanly treatment.

Yours truly, (Signed) Elmer A. Shard.

Copy

[fols. 2632 & 2633] GOVERNMENT EXHIBIT 36b

UNITED STATES

v.

PARAMOUNT FAMOUS LASKY CORPORATION ET AL.

Miscellaneous Home Office Correspondence

General File

Vol. III

[fol. 2634] Ars Gratia Artis

Metro-Goldwyn-Mayer Pictures, Loew Building, 1540 Broadway, New York

Office of E. M. Saunders

C. C. Pettijohn.

August 31st, 1926.

Mr. C. C. Pettijohn, Film Boards of Trade, 469 Fifth Avenue, New York City.

DEAR MR. PETTIJOHN: Please note the following, same being a quotation from a communication received from our branch manager in Minneapolis:

"I have been acting as one of the Exchange Members on the Board for the last few weeks, and we have between some

ninety and one hundred cases piled up and we never seem to be able to get thru more than two or three cases a day, just because of Al Steffes' activities as described above, as he is forever throwing wrenches into the gears and delaying the progress. It seems at the present rate of speed, it will take the next five years to get the cases alrady filed on the Board disposed of. Our meeting yesterday broke up in a free-for-all row, and I am on the verge of resigning from the Board as they don't seem to be able to make any progress with their work."

After you have read the above will you be kind enough to call me on the telephone so I may discuss the same.

Yours truly, E. M. Saunders.

No agreement or order will be binding on this corporation unless in writing and signed by an officer.

[fol. 2635] Minneapolis Film Board of Trade, Inc., 310 Film Exchange Building, Minneapolis, Minn.

S. P. Halpern, Counsel; A. L. Watson, Secretary

Phone: Atlantic 5043

Sept. 1st, 1926.

Mr. Gabriel L. Hess, Gen. Attorney, Film Boards of Trade, 469 Fifth Ave., New York City.

Dear Mr. Hess: Referring to your wire, received today, requesting a report of the Arbitration Board meeting reported in the August 28th issue of Greater Amusements.

This article features the resignation of Mr. Workman and Mr. Abel, two of the Distributor members of our Board. I feel quite safe in stating that both Mr. Workman and Mr. Abel will be present at the next meeting of the Arbitration Board and that they will continue to act as members of the Board. In a case of this kind, I presume such resignations would be submitted to the Film Board and that, if same were accepted, some other members would be selected by the Film Board to serve as Arbitrators. However, we have received no notice of the resignation of either and after talking with both these gentlemen today I believe it is their intention to continue with this work.

It is true that some rather heated arguments developed at the last meeting over the proper interpretation of certain rules and regulations and also as to what proof should be required of exchanges in certain cases. The argument started on a case which Fox brought against an Exhibitor, Mr. Steffes setting up the defense that there was nothing in the file submitted with the claim to show that the contract had been accepted by the Home Office of Fox Film Corporation. It was shown that the Exhibitor had been notified of the approval of the contract by the local Fox office and it was Mr. Abel's contention that it should not be necessary to produce the wire or letter from his Home Office authorizing him to notify the Exhibitor that the contract, or application for contract, had been accepted. Mr. Abel then stated that rather than go any farther with the argument he would withdraw the claim, which he did.
[fol. 2636] The other argument developed over the interpretation of Rule IV on "enforcement of decisions of Board of Arbitration." Our Arbitration Board has interpreted this Rule as meaning that where an Exhibitor or an Exchange has failed to comply with an award of the Board, that fact should be reported back to the Board before any further action is taken. Previous to this time, whenever I have been notified by an exchange that an Exhibitor had failed to live up to the Arbitration Board decision I have at once notified all exchanges to that effect. Now it will be necessary for the exchange to notify the Arbitration Board at the next meeting of the Board of any Exhibitors who have failed to live up to decisions. The Arbitration Board will then authorize me, as Secretary, to notify all exchanges of this fact and of the maximum security fixed. The Rule reads "The Board of Arbitration shall from time to time notify in writing the Secretary of the Film Board of Trade of names and addresses of Exhibitors who have refused to comply with a decision, etc." In other words it was claimed by the Exhibitor members of our Arbitration Board and finally agreed to by our Distributor members that exchanges should not take the action authorized in paragraph 3 of Rule IV until the Board of Arbitration, and not the exchange in whose favor the award was made, has determined that the terms of the award are not being complied with. We would like to have your opinion on this.

I believe the article in Amusements exaggerates the seriousness of what transpired at this last meeting. We have had many meetings in the past that were just as full of argument and heat as this one. It is true that the work here is somewhat congested now in the way of accumulated cases. We have sixty-six cases now pending, but starting Sept. 9th we propose to meet once each week until we get caught up. I believe that within the next six weeks we will be in the open again.

If it is true, as we have interpreted it here, that the Board of Arbitration must determine what decisions are or are not being lived up to, then what is the proper interpretation of paragraph 4 of Rule IV along this line? For instance the Board of Arbitration finds an Exhibitor has not fulfilled a decision and so notifies Secretary of Film Board who in turn notifies all exchanges. The exchanges send out leters demanding additional security and having failed to receive same, suspend service. Later the Exhibitor fulfills the award. Now should the fact that the Exhibitor has finally lived up to decision have to be reported back to the Arbitration Board before exchanges can be notified or may [fol. 2637] the exchange in whose favor the award was made report to the Secretary of Film Board direct that the award has been complied with?

Another question raised was as to whether the parties to a claim have the right after a decision has been rendered to settle the matter between themselves. This matter was discussed but not finally determined. I had always thought that an award might be complied with by settlement satisfactory to both parties involved. What is your opinion on this?

Just one more question. There has been considerable argument on this question—An exchange receives from an exhibitor an application for contract, on which application there are designated play-dates for certain pictures. The exchange accepts the application and notifies the exhibitor of approval without qualification. However, it develops that the exchange is unable to furnish a certain picture on the date specified on the contract. Is the Exhibitor bound to play this picture on another date when the picture is available or can he say that since the exchange could not

furnish the picture on the date specified on his contract he is not obligated to play it on any other date? In other words, does the approval of a contract on which there are specified play-dates confirm these dates to the Exhibitor?

I'm sure your opinion on the matters gone into in this letter will clear up the situation for us. With kindest regards, we are

Very truly yours, Minneapolis Film Board of Trade. G. B. Wiggins, Secretary.

[fol. 2638] Fox Film Corporation, 850 Tenth Avenue New York City

Office of James R. Grainger, General Sales Manager

Telephone: Columbus 3320. Cable Address: Foxfilm-New York

September 3rd, 1926.

Mr. Gabriel Hess, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: Enclosed herewith please find copy of letter received from Mr. S. E. Abel, our Branch Manager of Minneapolis, in answer to wire sent by Mr. Sichelman of our Organization regarding the report in the "Film Daily" that he had resigned from the Film Board of Trade.

Sincerely yours, J. R. Grainger, General Sales Manager.

JRG:L.

[fol. 2639] To: Mr. J. Sichelman.
From: Minneapolis.
Subject-Matter: Arbitration Board.
Date: August 31st, 1926.

Dear Mr. Sichelman: I informed you this morning by wire in response to your telegram, that I had indicated my intentions to resign as member of the Arbitration Board. Steffes, the President of the Exhibitors League in the "North West" has been using every technicality and has made every possible effort to complicate cases before the

Arbitration Board, to delay decisions to intimidate Board Members and to throw a smoke screen around legitimate cases to the point where it is impossible for a film company to obtain a just and fair hearing of their case and with resultant unfair decisions.

I am very friendly with Steffes on the Social side, but am the first one in this territory that has not been afraid to give him a legitimate battle and stand my ground. It was impossible to bring the other board members to realize that a stand had to be taken and my action in threatening to resign from the Arbitration Board, was a political move as far as I was concerned to force dissension in the ranks and bring true conditions to light, so that the Hays Association, could step in and force the Arbitration Board in Minneapolis to clear their docket of about sixty cases, still undecided.

Within the past two or three months there have been only about thirty cases decided just because Steffes blocks every move of the film members, through a better understanding of the rules of procedure and the terms in the contract, than the balance of the members representing the Board.

You can help me in this fight by getting the Hays Association, in action with the insistant demand that the present cases be decided immediately and that each case be decided according to its merits on the evidence submitted.

The case in question where my dispute with Steffes, brought about publicity, was a case where we had served a notice of acceptance of contracts upon the exhibitor by registered letter, and Mr. Steffes' contention was, that the only one having a right to issue approval direct to the exhibitor was the New York office, and that the burden of proof was upon me, to present the approval I had received from New York prompting our notification of acceptance to the exhibitor. I declined flatly to do this especially as we had placed in evidence the executed contracts executed by Mr. Leo.

Yours very truly, (Signed) S. E. Abel, Branch Manager.

SE A M.

[fol. 2640] Minneapolis Film Board of Trade, Inc., 310 Film Exchange Building, Minneapolis, Minn.

S. P. Halpern, Counsel; A. L. Watson, Secretary

Phone: Atlantic 5043

Sept. 4, 1926.

Mr. C. C. Pettijohn, Gen. Counsel, Film Boards of Trade, New York City.

Dear Mr. Pettijohn: Referring to your letter of Sept. 1st, relating to article in Greater Amusements on a break in arbitration.

This article greatly exaggerated what took place at the meeting. There were several heated arguments and quite a lot of talk that did not mean much. This was the first meeting the new Editor of Amusements had attended and he made the mistake of featuring a lot of things that were not of a great importance.

I had a long talk with Steffes yesterday and he has agreed to a special meeting for Tuesday, Sept. 7th to be followed by meetings on Sept. 16th, 23rd and 30th. This will allow us to clean up all pending cases. I am quite sure that after our next meeting this paper will publish an article showing that things are going along smoothly. There have been no resignations and both Mr. Workman and Mr. Abel will continue to act on the Arbitration Board. This thing is a little new to both of these men and they no doubt made statements which they would not have made had they taken time to think them over and to see what the effect might be.

In a few words, everything is now going along and all cases will be disposed of this month.

Very truly yours, G. B. Wiggins, Secretary Mpls. Film Board of Trade.

[fol. 2641] F. B. Minneapolis, 9/9/26

September 8, 1926.

C. C. Pettijohn.

Mr. G. B. Wiggins, Secretary, Minneapolis Film Board of Trade, Minneapolis, Minnesota.

Dear Mr. Wiggins: This is in reply to your letter of September 1, 1926.

I believe that the language of Paragraph 1 of Rule IV of the Rules and Regulations relating to Arbitration warrants your Arbitration Board's interpretation set forth in the first paragraph of the second page of your letter.

Accordingly if an exhibitor or distributor fails to comply with an award the exhibitor or distributor in whose favor the award was made should formally notify the Board of Arbitration of such fact and the Board of Arbitration will then be obligated to notify you as Secretary of the Film Board of Trade and also the Secretaries of each other Film Board of Trade located in each city out of which such exhibitor is served of the name and address of such exhibitor or distributor.

In the case of an award against an exhibitor you and the Secretaries of such other Film Boards of Trade must then proceed as provided in Paragraph 2 of Rule IV to advise all members of their respective Film Boards of Trade of the name and address of such exhibitor and subject to the provisions of Rule II (see last paragraph and sub-division one and two thereof) each member having a contract containing the Arbitration Clause with such exhibitor will be required to demand payment by the exhibitor of such a sum as in the judgment of such member shall be sufficient to protect such member in the performance of each contract with the exhibitor. Such sum must be determined by each member in accordance with Paragraph 3 of Rule IV.

If within seven days the exhibitor fails to pay the amount of security demanded each such member shall suspend service under each contract with the exhibitor until the exhibitor shall have furnished the security demanded or complied with the decision of the Board of Arbitration. If service [fol. 2642] shall be so suspended for a period of ten days each such contract may at the distributor's option be cancelled.

If after demand for security has been made the exhibitor either pays the security demanded or complies with the award each member upon the happening of either event must promptly resume service under each contract suspended except in case any such contract has been cancelled as above mentioned. Under such circumstance notice to the Board of Arbitration of the compliance with the award is unnecessary. A notice by the distributor in whose favor

the award was made to you as Secretary of the Film Board of Trade that the award has been complied with is sufficient. This for the reason that Paragraph 3 of Rule IV provides that upon the exhibitor furnishing the security demanded or complying with the award service under each contract suspended shall be promptly resumed. Thereupon you must forthwith advise all members of the Film Board of Trade of such fact as provided in Paragraph 4 of Rule IV.

The parties to a controversy before submission to arbitration or after an award has been made may upon such terms and conditions as are acceptable to them settle their differences. It is of no concern of the Board of Arbitration nor of the other members of the Film Board of Trade that a settlement of an award has been effected and agreed upon by the parties to the controversy in which the award was made.

In my opinion the acceptance of an application in which there is specified play dates for certain pictures is an acceptance and confirmation of such play dates obligating the distributor to make delivery of the prints of such pictures in time for their exhibition on the date specified.

The failure of the distributor to deliver the prints of any such pictures in accordance with the contract is a breach thereof giving the exhibitor the right to such damages as he may be able to prove he suffered. However such breach of contract is not so material as to warrant the exhibitor in claiming the entire contract breached in respect to the remaining pictures.

In respect to the acceptance of applications the Stand- [fols. 2643 & 2644] ard Exhibition Contract provides that the exhibitor's application shall not become binding until accepted in writing without alteration or change by an officer or any person duly authorized by the distributor and notice of acceptance sent to the exhibitor by mail or telegraph within the time specified.

Therefore if a branch manager either upon receipt of specific advices from his home office in each instance or generally has been given the authority to accept applications his written acceptance is binding upon the exhibitor and the distributor. The mailing by a branch manager of a notice of acceptance of the exhibitor's application is presump-

tive evidence of his authority to accept the application and if the exhibitor disputes such authority the burden of proof is upon the exhibitor to prove that the branch manager did not have the authority to accept his application.

Very truly yours, Gabriel L. Hess, General Attorney.

[fol. 2645] GOVERNMENT EXHIBIT 36c

U. S.

v.

PARAMOUNT FAMOUS LASKY CORPORATION et al.

Miscellaneous Home Office Correspondence

General File

Vol. IV

[fol. 2646] United Artists Corporation

August 24, 1926.

Mr. Charles Pettijohn, General Counsel, Film Board of Trade, 469 Fifth Avenue, New York City.

DEAR MR. PETTIJOHN: I herewith quote from a letter written by one of our representatives regarding the situation in St. Louis, under date of August 20th.

"Pursuant to your request for a detailed report on conditions as I found them at our St. Louis office, I respectfully submit to you herewith the following:

"That upon inspecting and examining the records of the Contract Register on the unplayed business I found that upward of 500 contracts were missing from our office files. These contracts, I was told, were in the possession of the St. Louis Film Board of Trade, and there is where I found them. I experienced great difficulty in having them returned, the Film Board claiming that it was their property after the contracts are once filed with the Board. This in itself is in my opinion improper, impractical and unnecessary, and should not be permitted to continue.

"Out of the 500 and more contracts so recovered (and they represent about 34 accounts) I found that about 28 contracts were cancelled on our regular Forms 51; 5 contracts were played and paid for, and the balance of the contracts are undated.

"The function of the Film Board of Trade and the Joint Arbitration Board is in my judgment irregular, and does not measure up to the standard of a well organized and a 100% functioning Board. In support of this statement let me cite you that out of 175 awards made by the Arbitration Board in favor of exchanges 64 theatre owners whose houses are open and are operated failed to comply with these awards, and nothing is being done by the Film Board of Trade to seek their enforcement. 95 cases are affected by changes of ownership and closed houses, and no effort is made by the Credit Committee to cooperate in that direction. The Credit Committee is a joke, and its functions negligible.

"Of course, you will appreciate that the figures I am giving you are only approximate, and the actual figures may be far in excess of those quoted. In order that you may [fol. 2647] obtain absolute and authentic figures special attention should be given this matter by the St. Louis office."

Please let us hear from you on this.

Yours very truly, United Artists Corporation.
(Signed) Wm. H. Hines, General Sales Manager.

9-101, P.W.

[fol. 2648] August 31, 1926.

Mr. C. C. Pettijohn, General Counsel, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Pettijohn: Your letter of August 24th, quoting letter from United Artists Corporation, is received. To say it came as a bomb shell is expressing it mildly. This letter was taken up with members of the Joint Arbitration Board and the Credit Committee and they have taken this length of time to give you an answer because they wished us to give you nothing but the truth based on facts and to write you the exact conditions as we know them to exist.

First, with reference to the second paragraph of the

United Artists Corporation letter—the informant advises that the Film Board of Trade had 500 contracts of theirs in our office files. When the Arbitration Board takes a claim they insist on having all papers and contracts relating to the case held in the Board of Trade office until the claim has been finally decided one way or the other—either adjusted or withdrawn—then the contracts and papers are returned to the office they belong to. An Exchange can not file a claim without filing the contracts, and where claims are not settled promptly they are often referred back to or called for by the Arbitration Board for some special reason, so the contracts are kept available until the claim, as above stated, is either settled or withdrawn. There has been no objection to the procedure, and it prevents an Exchange accepting dates on contracts without notifying the Board that the claim has been settled, and also prevents the filing of a second claim on the same contracts. This auditor's statement that in his opinion the practice is improper, impractical and unnecessary does not amount to much so far as the St. Louis Board is concerned.

The only difficulty, as he expressed it, in having contracts returned was this—on Saturday morning at 10 o'clock Miss Schofield was making out the decisions for the previous day's Arbitration Board meeting and this auditor sent a girl from his office to get all contracts of United Artists Corporation out of their claims filed with the Arbitration Board. To do this it would have been necessary for Miss Schofield to stop her work and make a record of every contract they took away, which she couldn't do on account of the short notice. She asked them to send someone up from their own office, which they did and Miss Schofield spent [fol. 2649] an hour of her good time on Saturday to help them out, so he had no reason to complain about non-cooperation. Personally, Mr. Pettijohn, you know Miss Schofield well enough to know she is ready and willing to co-operate at all times.

In the third paragraph of this letter it is stated that out of the 34 accounts representing 500 contracts, 28 contracts were cancelled out and 5 contracts were played and paid for and the balance of the contracts are undated. We feel that this paragraph is a gross exaggeration. On every claim a decision is rendered by the Arbitration Board and

the only way the decision can not be fulfilled is when the theatre closes or is sold. We are going to enclose a list of theatres for your information that you may take up with the United Artists Corporation and show them that the Arbitration Board has given them decisions that could not be fulfilled, but at the same time if they had a branch manager here who would be allowed to make decisions for himself and be as other branch managers are in this city—allowed to use his own discretion instead of having to stand pat and make no adjustments of any kind, many of these claims would have been fulfilled. However, inasmuch as each picture is written on a separate contract for different producers, it seems he is tied and can do nothing, but we believe any fair-minded man should be able to make adjustments within reason and do away with so many claims. Don't you think so, Mr. Pettijohn? We know from positive facts that many of these theatres would be open today if these claims of United Artists Corporation had not been put in. They get so few prints in this office that they run prints to 150 different accounts and then when a man writes in that the condition of the prints is ridiculous they put a claim in with the Arbitration Board because he refuses to play the pictures. They don't get prints to replace the worn ones and we have a very difficult task satisfying both parties to the contract. We have had many claims of this kind and when the cards are examined we find conditions no other office would tolerate.

Regarding the fourth paragraph of this marvelous letter—"Out of 175 awards made by the Arbitration Board in favor of Exchanges 64 theatre owners whose houses are open and are operated failed to comply with these awards and nothing is being done by the Film Board of Trade to seek their enforcement—we are enclosing a copy of the list he refers to. These are claims ranging from 1924 to the present time. These exhibitors have all received the First Notice demanding additional security, and the Second Notice suspending service. Every Manager, Booker, Salesman and all Boards serving overlapping territory get copies of this list. A short time prior to receiving your [fol. 2650] letter to assure each member of the Film Board of Trade, an investigating committee was appointed by the

Board and this committee checked the booking books of every Exchange in St. Louis and a report was made to the Film Board of Trade that not one theatre on this list was being served by any Film Exchange in St. Louis. The theatres are either closed or being operated irregularly on State Right product out of other Exchange centers. Bookers keep this list before them at all times, salesman check the theatres in towns visited by them, and the postmasters are being written to regularly for information as to the theatres. The St. Louis list is no different from lists of other Film Boards of Trade, such as the Chicago list which we are enclosing herewith. So you can see that by making such statements this man is wilfully and maliciously predetermined to injure the St. Louis Film Board of Trade.

With reference to the 95 cases effected by changes of ownership and closed houses and no effort is made by the Credit Committee to co-operate in that direction—the Credit Committee is a joke and its functions negligible, according to this auditor—If this statement were in any way correct, we would be in line to have our Credit Committee considered a joke, but we dislike that expression and we feel that we are entitled to an apology from the United Artists Corp. for having a man like this on the road because he is a great detriment to the Industry. He has never been in the office of the St. Louis Board and knows nothing about the workings of the Board or the Credit Committee. Our Credit Committee is made up of the oldest men on our Board and are of high character and of fair disposition. Just a short time ago this Committee received a vote of thanks and a vote of confidence from the members of the Board for their splendid work. For the Credit Committee to accomplish what this man seems to expect a Credit Committee to accomplish, it would be necessary for the New York office to equip the members with sawed-off shotguns to take the place of the Rules and Regulations now in effect.

We are enclosing a copy of the list he has reference to. It contains the names of exhibitors who have sold their theatres—some of them, in fact most of them on the list, prior to the installation of Credit Committees in Film Boards of Trade. Where the Credit Committee reports to members that a new owner will not assume the contracts of the former owner, for reasons fully investigated by the

Committee and considered by them to be sufficient, the Exchanges then file claims against the former owner and the Arbitraton Board gives awards along the lines laid down [fol. 2651] by the New York office, and the exhibitor is carried on the list until such time as he either opens another theatre or the Exchange decides to take legal action to collect and the claim is withdrawn. All salesmen receive a copy of this list and notify their office when an exhibitor intends to open a different theatre.

We do not say that no mistakes occur when there are so many theatres on the list. We made an effort at one time to eliminate some of the older names, but this met with the objection of some of the managers, so the lists are made out complete each time a change is made. Occasionally a shipment will get through from an Exchange, but it is soon reported and corrected and we believe such mistakes are always unintentional.

Answering the last paragraph—the writer is absolutely in error in regards to the charges except in the statement which shows he was either too lazy or too busy to dig up the actual figures for himself in making up this report to his New York office. Everything he has stated is mere estimate on his part not based upon facts or figures but merely upon his fancy which in our estimation takes flighty leave of him every once in a while. It would be better for such a man to be placed in the position of office boy where he could not do any harm rather than in the responsible position of an auditor sending out false reports and malicious statements which if they were not disproved would work a serious hardship on the people involved. Further, we believe it would be a good idea to furnish this man with a copy of the Rules and Regulations under which the Film Boards of Trade, the Arbitration Board and the Credit Committee operate and have him memorize them verbatim and have him recite them and after he has recited them, ask him if he understands what the entire text means, then if he does not understand, have someone in your employ explain them to him fully so that he will be able to understand them. Also as there seems to be a lack of efficiency on the part of the St. Louis United Artists Corporation office with respect to the rulings of the Arbitration Board and the Credit Committee, it would be advisable to have their Home

Office advise them as to the procedure or if that is too much trouble we will gladly instruct them here as to the proper methods of procedure, relating to Arbitration Board and Credit Committee.

For your further information the attendance of the Branch Manager of the St. Louis United Artists Corporation office at the meetings of the Film Board of Trade has been poor—only 3 meetings out of 6. You can readily understand that a concern bearing the reputation of United Artists Corporation should certainly have its manager at all meetings of as important a body as the Film Board of [fol. 2652] Trade. This is merely for your information. The Branch Manager is not a good, progressive business man. He has a very domineering nature and will not listen to reason. His conduct at the meetings is arbitrary—it is either I win or it is all wrong, and, furthermore, we know the Exchange is in a deplorable condition. There are personal reasons this boy is kept here. We feel that United Artists Corporation under another management would be a very big help to us.

Now, Mr. Pettijohn, this is a very long letter and it is not our purpose to bore you, but we wanted to give you the facts as they are in this town. In conclusion we want to say that all members of this Board absolutely demand that this auditor be set right because his travelling around the country causing this kind of letter to be written to his Home Office will certainly break the morale of the Film Boards of Trade. So we demand that this fellow apologize for this disgusting epistle and be told exactly what he has to do so far as we are concerned if he cares to make the St. Louis Exchanges at any time. We put in a great deal of time in the Board Work trying to straighten out claims and contracts for the different Exchanges and we have what we consider the best Film Board of Trade in the United States and we are very proud of our members. They have come into line as one brother to another and we want always to continue to be in that line.

Sincerely yours, St. Louis Film Board of Trade. Oscar Lehr, Chairman Arbitration Board. H. I. Krause, President.

9-104, P.W.

[fol. 2653] September 15, 1926.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: Answering your letter of September 10th in which you criticise part of the last paragraph of our letter replying to unjust charges against the St. Louis Film Board of Trade and the Joint Arbitration Board made by a representative of the United Artists Corporation —we shall acquiesce in your demand and withdraw this part of the paragraph.

The letter was the joint dictation of the Chairman of the Joint Arbitration Board, representing the Exhibitors Organization, and a member of the St. Louis Film Board of Trade, also on the Joint Arbitration Board. It was signed by the writer, as President of the Film Board of Trade, because he agreed with the sentiments as expressed. It is true these gentlemen, in their indignation, expressed themslves too harshly in the last lines of the closing paragraph, and they readily admit it, however, the remainder of the letter stands just as written, and we believe merits a prompt response.

Yours very truly, St. Louis Film Board of Trade.
—— ——, President.

9-108, P. W.

[fol. 2654] December 11, 1928.

Gabriel L. Hess, Esq., Film Boards of Trade, 469 Fifth Ave., New York City.

My Dear Mr. Hess: In accordance with your request, I am summarizing below the services rendered to the Copyright Protection Bureau, during the year 1928.

Washington, D. C. Cases

1. Universal, F. B. O., Warner, United Artists, Pathe, Metro, Educational, Columbia, Tiffany, vs. Edmondson Amusement Co., Inc., operating Bridge Theatre, Baltimore, Md.

Left New York on April 12, 1928.

Interviewed branch managers and salesmen of each of the companies involved; examined records of the various branch offices and constructed trial brief and chart.

Presented case before Washington Board of Arbitration on April 13, 1928, during five hour session.

Award rendered in favor of film companies for $1,052.00. Returned to New York April 14, 1928.

2. Fox, Metro, Paramount, United Artists, Educational, vs. Floyd Linninger, Westernport, Va.

Case referred to me for preparation and advice on April 20, 1928.

Left New York for Washington on April 26, 1928.

Interviewed witnesses, compilated evidence and trial memorandum.

112-43.

[fol. 2655] Tried case before Washington Board of Arbitration on April 27, 1928, during five and one half hour session.

Award in favor of film companies involved for $1,579.00.

Returned to New York April 28, 1928.

3. First National, United Artists, Paramount, Fox, Big U, Pathe Exchange, Inc. and Pathe Exchange, Inc., as agent for Producers Distributing Corp. vs. William Dalke and George Payette, operating Strand Theatre, Strassberg, Va., New Theatre, Woodstock, Va. and New Theatre, New Market, Va.

Case referred to me for preparation May 4, 1928.

Left New York for Washington to discuss settlement with exhibitor on May 11, 1928.

Interviewed Payette & Dalke on May 12, 1928 and returned to New York same evening.

Exhibitors refused to make any settlement whatsoever.

Claims were ordered filed.

4. Same case.

Left New York July 25, 1928 for Washington.

Interviewed witnesses, compiled newspaper advertisements, booking records, programs and other evidence and prepared trial memorandum.

Presented case before Washington Board of Arbitration on July 27, 1928, in a session which lasted six and one half hours.

Awards rendered in favor of film companies for $4,553.00.

Returned to New York July 28, 1928.

5. Same case.

August 10, 1928—Various legal motions filed by attorneys for Payette & Dalke to set aside award and for a rehearing. [fol. 2656] Filed answering legal memorandum.

September 13, 1928—Left New York for Washington to oppose motion to reopen case and for reargument, which application was based upon claim that new proof had been discovered which showed that the Board of Arbitration was in error in granting its award.

September 14, 1928—Opposed motion for reopening of case before Washington Board of Arbitration. Submitted Memorandum of Law, prepared in advance, to guide them in determination of legal questions involved.

Decision—Board denied the motions to set aside the award and to reopen the case. Awards were held to be final and valid.

Returned to New York September 14, 1928.

Boston, Mass., Case

1. Famous Players vs. Jack Ceranga, operating Central Theatre, Revere, Mass.

Left New York June 28, 1928, for Boston.

Interviewed witnesses, prepared trial memorandum.

Presented case before Boston Arbitration Board on June 29, 1928, during session which lasted three hours.

Award rendered in favor of Exchange for $500.00.

Returned to New York June 30, 1928.

2. Same case.

Corresponded with Judge Kennedy of Boston with reference to settlement of the matter and interviewed Judge Kennedy at my office on August 14, 1928, effecting settlement of $250.00.

[fol. 2557] Philadelphia, Pa., Cases

1. F. B. O., Educational, DeLuxe, Tiffany, vs. Charles R. Tremont, Norristown, Pa.

Interview for settlement arranged on July 10, 1928, at which time settlement was reached for $700.00.

2. F. B. O., Fox, Educational, vs. Mr. Chertkoff, operating Strand Theatre, Lancaster, Pa.

Left New York September 7, 1928.

Interviewed witnesses, prepared trial memorandum; obtained affidavit of employee of exhibitor.

September 8, 1928—Interviewed exhibitor for purpose of settlement. He refused to settle for $400.00.

Presented case before Philadelphia Board of Arbitration during three hour session.

Award in favor of exchanges for $1,200.00.

3. Educational, Big U, Liberty, Fox, Pathe, F. B. O., vs. Milton Hirshfeld, Stacy Amusement Co., Hermitage Co., Benjamin M. Greenwald.

Case referred to me for preparation on August 1, 1928.

Interviewed Mr. Hershfeld and Mr. Greenwald of Mr. Hershfeld's office on August 10, 1928, August 20, 1928, September 5, 1928, September 18, 1928, October 22, 1928, October 24, 1928, October 29, 1928 and October 31, 1928, with reference to settlement of the claims insofar as Hershfeld was concerned, reserving our rights against Hildinger Booking Co. Settlement of any kind rejected.

112-46.

[fol. 2658] Left New York for Philadelphia on November 3, 1928.

Interviewed witnesses, compiled trial memorandum.

Interviewed Mr. Hershfeld and his attorney, Mr. Forman, and settled claims with Hershfeld, reserving all our rights against Hildinger.

Settlement, $1,000.

4. Education, Big U, Liberty, Fox, Pathe, F. O. B. vs. Mildinger Booking Co.

Case referred to me on August 1, 1928. Interviewed Mr. Hildinger Booking Co.

Assisted in preparation of case, gathering of information, compilation of evidence, preparation of affidavits. Interviewed and prepared affidavits for various employees of the Free Show Departments of the various companies.

Presented several of the claims before the New York Board of Arbitration in advance of presenting claims to Philadelphia Board of Arbitration and obtained award of $10,900.00.

On November 1, 1928, visited Mr. Jack Leo, Vice President of Fox Film Corp., to examine witness Fred Couzer involved in case and dictated affidavits of admissions obtained. This conference lasted four hours.

Left New York on November 2, 1928 to arrange final preparation of case before presentation. On November 3, 1928, Mr. Hildinger and his attorney requested an adjournment for the purpose of discussing settlement.

Returned to New York on November 4, 1928.

112-47.

[fol. 2659] 5. Same Case.

Interviewed Mr. Hildinger at my office on November 21, 1928. Assisted Mr. Gabriel L. Hess, general attorney, in arriving at settlement of $7,500.00.

Albany Case

1. Metro and Fox vs. J. Beck, operating Liberty Theatre, Liberty, N. Y.

Left New York for Albany November 18, 1928.

Interviewed witnesses, gathered evidence, compiled trial brief and memorandum.

Presented case before the Albany Board of Arbitration during two hour session.

Award in favor of film companies in amount of $7,000.00.

Returned to New York November 19, 1928.

Cincinnati Case

1. United Artists, Metro, Pathé, First National vs. Pela Theatre Co. and Elmer A. Shard.

Case submitted to me for preparation on November 15, 1928.

Left New York December 1, 1928, for Cincinnati.

Compiled evidence and interviewed managers and salesmen as well as witnesses on Sunday. Prepared memorandum of law and trial memorandum.

Presented case before Cincinnati Board of Arbitration on December 3, 1928, during session lasting five hours.

Award in favor of Exchanges for $13,000.00.

112-48.

[fol. 2660] Returned to New York December 5, 1928.

2. Same Case.

Mr. Shard, exhibitor involved, came to New York and retained Mr. Nathan Burkan to represent him in this case. After discussing matter with Mr. Froelich of Mr. Burkan's office, Mr. Shard visited me on December 7, 1928 and I assisted Mr. Gabriel L. Hess in the concluding of a settlement for $10,000.

Total amount of awards and setlements above outlined	$38,084.00
Number of days away from office	23
Number of cases above outlined	15

There is not included in the above statement the correspondence carried on during the year with reference to these services nor the preparation and execution of various settlement agreements, nor is there included a description of the various conferences with Mr. Gabriel L. Hess, General attorney, and Mr. Jack Levin, Director of the Copyright Protection Bureau, with reference to the planning, directing and supervising of the work above outlined.

In each instance above referred to, the award established a precedent concerning copyright violations and in each instance above mentioned, definite arrangement was made with the exhibitor involved to cease the practice he had been charged with and to purchase additional film after the date of the award.

Sincerely yours, —— ——.

IN:C.

112-49.

[fol. 2661] Ex. 289

Film Boards of Trade

Albany, Atlanta, Boston, Buffalo, Butte, Charlotte, Chicago, Cincinnati, Cleveland, Dallas, Denver, Des Moines, Detroit, Indianapolis, Kansas City, Los Angeles, Memphis, Little Rock, Milwaukee, Minneapolis, New Haven, New Orleans, New York, Oklahoma City, Omaha, Philadelphia, Pittsburgh, Portland, St. Louis, Salt Lake, San Francisco, Seattle, Washington.

469 Fifth Avenue, New York

Charles, C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

March 18, 1927.

Miss A. L. Menagh, Secty. Kansas City Film Board of Trade, Kansas City, Mo.

Dear Miss Menagh: Mr. Hess has requested Mr. Marcus, of F. B. O., to instruct Mr. Churchill to file a claim with your Arbitration Board against the owner of the Garden Theatre, Wakeeney, Kansas, for "bicycling." I understand that this exhibitor admitted the wrongful exhibition of F. B. O.'s pictures.

Please confer with Mr. Churchill and prepare the claim in conformity with the complaint forms recently sent you by this office.

We are anxious that this case be heard by your Board as soon as possible so will kindly ask that you give it immediate attention, and let me have a brief memorandum of the proof in this case.

With kindest regards, I am

Very truly, (Sgd.) L. H. Flinn, Asst. to General Counsel.

Ex. 289, 10/24/28.

[fol. 2662] Ex. 290

March 21, 1927.

L. H. Flinn, Asst. to General Counsel, Film Boards of Trade, New York City.

Dear Mr. Flinn: I have your letter of March 18th, with reference to F. B. O.'s "bicycling" claim against C. B. Kelly, Garden Theatre, Wakeeney. The same will come up for hearing before the Joint Board of Arbitration on Tuesday, March 29th.

Mr. Kelly is trying to settle the matter with Mr. Churchill, outside of the Arbitration Board, but I will caution Mr. Churchill to make no agreement with him.

I am enclosing copies of letters Mr. Kelly has written, also, a copy of an ad appearing in one of the papers.

I will let you know what the outcome of this case is.

Very truly yours, Kansas City Film Board of Trade. — — ——, Secretary.

Ex. 290, 10 24 28.

[fol. 2663] Ex. 295

April 8, 1927.

L. H. Flinn, Assistant to General Counsel, Film Boards of Trade, 469 Fifth Avenue, New York City.

Re Bicycling Claim

Dear Mr. Flinn: I am so proud of my Arbitration Board that I haven't had the heart to send you a copy of the Award they rendered F. B. O. against the Exhibitor at Wakeeney, Kansas.

The Exhibitor appeared before the Board when the case came up for hearing, admitted that he had shown pictures contracted for in Wakeeney, at Voda, but, of course, stated that he would not do it again without permission, and the Exhibitor members of the Board wanted to let him off with $1.00 damaged. Finally they raised it to $25.00 and that motion passed with a majority vote of 4-2. They just laughed at $250.00 damages.

Very truly yours, Joint Board of Arbitration. —— ——, Secretary.

Ex. 295, 10/24/28.

[fol. 2664] Joint Arbitration Board of St. Louis Film Board of Trade and Motion Picture Theatre Owners of Eastern Missouri and Southern Illinois, 3312 Olive Street

L. B. Schofield, Secretary

Jefferson 1608

St. Louis, Mo., April 3, 1926.

Mr. C. C. Pettijohn, General Counsel, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

DEAR MR. PETTIJOHN: At the last meeting of the Joint Arbitration Board we were directed to place before you the attached correspondence, which is self explanatory.

The Joint Arbitration Board has written to Mr. A. E. Fair of the Theatrical Department of Universal Film Corporation, also direct to Mr. Carl Laemmle, but have received no reply from either.

Inasmuch as the Board asked for information which they wished to have before making an award on claims filed with them, the refusal on the part of Universal Film Corporation seemed a direct challenge of the power of the Board to get all the facts entering into a case. They, therefore request your office to see that they get all the information they have requested.

Yours very truly, Joint Arbitration Board. ——
——, Secretary.

Exh. 93-16, P.W.

[fol. 2665] Film Boards of Trade

Albany, Atlanta, Boston, Buffalo, Butte, Charlotte, Chicago, Cincinnati, Cleveland, Dallas, Denver, Des Moines, Detroit, Indianapolis, Kansas City, Los Angeles, Memphis, Little-Rock, Milwaukee, Minneapolis, New Haven, New Orleans, New York, Oklahoma City, Omaha, Philadelphia, Pittsburgh, Portland, St. Louis, Salt Lake, San Francisco, Seattle, Washington

469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

April 19, 1926.

Miss L. B. Schofield, Secretary St. Louis Joint Board of Arbitration, 3312 Oliver Street, St. Louis, Missouri.

DEAR MISS SCHOFIELD: Your letter of April 3, 1926 to Mr. Pettijohn concerning the Fourth Street Theatre, Moberly, Missouri was referred to Mr. R. H. Cochrane, Vice President of the Universal Pictures Corporation.

Upon its receipt Mr. Cochrane wrote to Mr. Fair as follows:

"Please clean this up at once. It is important that we do not set a bad example to exhibitors by defying the Film Boards. Also please answer this letter from Hess at Hays Office."

Mr. Fair in turn wrote me as follows:-

"Mr. R. H. Cochrane has asked me to answer your letter of April 12 enclosing a letter received from the St. Louis Joint Arbitration Board and other correspondence concerning film contracts at Fourth Street Theatre, Moberly, Mo.

"By letter of March 15 our Mr. R. T. Newton of Hostettler Amusement Company, 418 Brandeis Theatre Building, Omaha, Nebraska was asked to handle this complain. On receiving a second notice from the St. Louis Film Board, in a letter of March 26, to Mr. Laemmle we wrote to Mr. Charles T. Zears, 1005 Main Street, Kansas City, Mo. stating that we were wholly unfamiliar with the circumstances and asking that the complaint be investigated without delay.

[fol. 2666] "On that date (April 2) we wrote to Mr. L. B. Scholfield, Secretary of the Arbitration Board at 3312 Olive Street, St. Louis, telling him that we were not at all familiar with this matter, but that Mr. Zears, who was no doubt acquainted with all the facts surrounding the purchase of the Moberly Theatre, would get in touch with him without delay.

"As near as we can determine here this whole controversy has to do with some old film contracts of the

former owner, Mr. Cotter, which were not assumed under the written contract of sale, but it seems Mr. Cotter has a different understanding.

"Meanwhile Mr. Newton has been trying to work out a satisfactory solution with each of the exchanges involved. In his letter of March 22 is mentioned that Metro, Producers, Warners' Universal and United Artists Exchanges have been satisfied.

"If the Company is to be guided by our written agreements, none of these old contracts are to be assumed, but we are hopeful that the St. Louis Exchange and our representative in that territory will eventually reach a satisfactory agreement.

"Once more we are writing to both Mr. Zears and Mr. Newton, asking them both to lend their cooperation to this end."

Is there anything further required in this matter?

Very truly yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

25.

Exh. 93-20, P.W.

[fol. 2667]

May 25, 1926.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: With further reference to the Fourth Street Theatre, Moberly, Missouri, which was sold by Mr. J. W. Cotter to the Sears Amusement Corporation. You will recall that the Joint Arbitration Board wrote to Mr. Pettijohn concerning this sale, and you replied to the Joint Arbitration Board under date of April 19th.

The Joint Arbitration Board continued its investigation of this sale, and at the last meeting of the Board, affidavits were presented to the Board by Mr. Cotter, through Mr. Hynes, one of the members of the Arbitration Board. We are attaching hereto copies of the affidavits, which speak for themselves.

The Credit Committee, upon learning of these affidavits voted to reconsider their decision on the transfer of the Fourth Street Theatre, and today decided that the Sears Amusement Corporation had agreed to assume all con-

tracts of Mr. Cotter, and placed a security of $2,000.00 against this account.

We are advised that the Joint Arbitration Board are also ready to hold the Sears Amusement Corporation responsible for the contracts held by the St. Louis Film Exchange and United Film Service of St. Louis. These cases will come up for awards by the Arbitration Boards on next Friday.

We are placing these facts before you at the direction of the Credit Committee.

Yours very truly, St. Louis Film Board of Trade.
—— ——, Secretary.

Exh. 93-30, P.W.

[fols. 2668 & 2669] Western Union

Newcomb Carlton, President. J. C. Willever, First Vice-President

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

Received at 3301 Olive Street, St. Louis, Mo.
Garfield 4321-Sta. 67.
89A AR 38.
89.

U. D. New York, N. Y., 3:36 P., June, 22, 1926.

St. Louis Film Board of Trade, St. Louis, Mo.

R. T. Neuton in charge Fourth Street Theatre for Universal is enroute to New York will see him this week and then advise you of Universals position write immediately names of exchanges holding contracts not taken over by Universal.

Gabriel L. Hess, 3:01 P.

Exh. 93-33.

[fol. 2670] June 22, 1926.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: This will acknowledge the receipt of your telegram of this date with reference to the Fourth Street Theatre, Moberly, Mo.

The following Exchanges in St. Louis hold contracts with this theatre and as yet they have not been taken over by Universal Theatres:

Columbia Pictures Corporation		
18 Specials	$645.00	
35 Program Pictures	435.00	
		$1,080.00
Progress Pictures Corporation:		
19 Features		190.00
20 Comedies		100.00
St. Louis Film Exchange:		
67 Features		1692.50
United Film Service:		
17 Features	170.00	
2 Tom Mix Re-Issues	25.00	
1 Banner Production	20.00	
6 Felix Cartoons	18.00	
		238.00
Jack Weil Pictures:		
9 Features		
3 Comedies		238.00

Yours very truly, St. Louis Film Board of Trade.
—— ——, Secretary.

Exh. 93-34, P.W.

[fol. 2671] Copy

Universal Chain Theatrical Enterprises, Inc., 730 Fifth Avenue, New York City

August 2, 1926.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, New York City.

Dear Mr. Hess: This will acknowledge receipt of your letter of July 30, with copy of telegram you sent to Film Board of Trade in St. Louis regarding the Fourth Street Theatre in Moberly.

As explained to you last week, we do not acknowledge liability under any of the contracts Mr. Cotter had with various film exchanges at the time we took over his theatre. We want to cooperate in every way possible, and for this reason think it barely possible that we will be able to pick out a sufficient number of pictures and play them in Moberly, and thereby satisfy the Independent exchanges.

I will get in touch with you as soon as I hear from my district manager.

Very truly yours, R. E. Newton.

Exh. 93-41, P. W.

[fols. 2672 & 2673] Western Union

Newcomb Carlton, President. J. C. Willever, First Vice-President

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

Received at 3301 Olive Street, St. Louis, Mo. Garfield 4321—Sta. 63.

22A AR 38. New York, N. Y., 1054 A., Dec. 16, 1926.

Miss L. B. Schofield, Secretary St. Louis Film Board of Trade:

Please send me complete details in matter of award against Universal Theatres on contracts with J. W. Cotter, Fourth Street Theatre Moberly including evidence of assumption of contracts Stop Without all action until you hear further from me.

C. C. Pettijohn. 10:27, A.

Exh. 93-59, P. W.

[fol. 2674] December 16, 1926.

Mr. C. C. Pettijohn, General Counsel, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Pettijohn: In answer to your telegram with reference to the Fourth Street Theatre, Moberly, Missouri.

Before making any awards on claims filed against Mr. J. W. Cotter of the Fourth Street Theatre, Moberly, Mo., by three regional distributors, the Joint Arbitration Board wrote to Mr. A. E. Fair of the Universal Theatres Corporation, under date of March 12th.

No reply being received to this letter, a copy was sent to Mr. Carl Laemmle, which brought a reply from Mr. Fair, dated April 2nd, also a letter from Mr. Chas. T. Sears, dated April 6th. The Joint Arbitration Board also wrote to you under date of April 3rd. Mr. Gabriel Hess answered this letter, advising that all correspondence had been forwarded to Mr. R. H. Cochrance, Vice President of the Universal Pictures Corporation. Mr. Hess followed this letter up with another dated April 19th, in which he quoted letter received from Mr. Fair of Universal Theatres Corporation, in answer to Mr. Cochran's letter to him. Mr. Fair stated their Mr. Newton was trying to work out a satisfactory solution with each of the Exchanges involved, and that he had satisfied the National Distributors and was hopeful of straightening out with the St. Louis regional distributors.

The Credit Committee learning of the affidavits presented by Mr. Cotter to substantiate his claim that the Universal Theatres Corporation would protect him on his contracts, took up this question of change of ownership at Moberly and found that Universal Theatres Corporation had agreed to assume contracts signed by Mr. Cotter, and so wrote Mr. Hess, and asked what Uinversal intended to do. Mr. Hess replied that Mr. Newton would be in New York, and we sent Mr. Hess information regarding contracts which he asked for, and later furnished Mr. Meyer of Universal Theatre Corporation at Kansas City the same information. Mr. Hess wired Mr. Meyer would call on Exchanges in St. Louis [fol. 2675] with view of making assignment of their contracts.

We believe the Universal Theatres Corporation did send a representative to St. Louis, but he did not call on the Exchanges interested.

In the meantime, Mr. S. J. Hankin of the Educational Film Exchanges, Inc., took the matter up personally with the Universal Theatres Corporation at Kansas City, and they asked him to work out some satisfactory adjustment with the regional distributors, and a meeting was called for that purpose and an agreement worked out. A copy of this agreement was sent to the Universal Theatres under date of August 17th.

No answer was received to this and upon Mr. Hankin writing to Mr. Meyer, regarding it, Mr. Meyer stated he would be in St. Louis within a week.

Mr. Meyer did not come to St. Louis, and under date of October 8th, the Joint Arbitration Board made awards on the claims filed. The Board was una-imous in its decision, and the St. Louis exchanges suspended service to the Universal Theatres Corporation and its subsidiary companies. We received a telegram from Mr. W. L. Doudlah advising he had just been appointed General Manager, and asked for further time to investigate the situation. This the Arbitration Board refused to grant.

We have now received advice from the Secretary of the Kansas City Film Board of Trade that some of their members refuse to co-operate on these awards until they hear from New York.

We are sending you herewith the letters and telegrams referred to above; copies of the claims filed and the awards made; also the affidavits sent into the Arbitration Board by Mr. J. W. Cotter on which the Arbitration Board and the Credit Committee based their decisions.

As the situation stands, St. Louis Exchanges have suspended service, but the Kansas City Exchanges have not.

Yours very truly, St. Louis Films Board of Trade.
—— ——, Secretary.

[fols. 2676 & 2677] Western Union

Newcomb Carlton, President. J. C. Willever, First Vice-President

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

Received at 3301 Olive St., St. Louis, Mo. Garfield 4321—Sta. 63.

97A AR 205 Blue.

Fe New York, N. Y., 4: 19 P., Dec. 16. 1926.

L. B. Schofield, St Louis Film Board of Trade:

Please immediately read copy of telegram this office has just received from Columbia Progress United Gotham and St. Louis Film Exchange Stop Deliver to each of these exchanges following reply to their telegram Stop Your home office was advised that Universal Theatre Corporation had not complied with certain arbitration awards in favor of members of St. Louis Board Stop I presume some of these awards are in favor of National Distributors as well as in-

dependents but irrespective of that fact we asked secretary St. Louis to forward us statement of facts believing we could be helpful by presenting those facts to Universal home office in New York Stop This we have done and are advised by Universal home office today that they are sending air mail instructions to their Mister Reinke to immediately get in touch with you folks and settle controversy Stop This is probably the interference you refer to we are glad to know how you appreciate our efforts especially in view of fact that the St. Louis claim was filed against Cotter and the award made against Universal which is clearly an improper award Stop If you want us to cease all efforts in your behalf just let us have one more *more* wire to that effect regards.

C. C. Pettijohn. 4:15 P.

Exh. 93-61, P. W.

[fols. 2678 & 2679] Western Union

Newcomb Carlton, President. J. C. Willever, First Vice-President

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

St. Louis, Mo., Dec. 16th, 1926.

Mr. C. C. Pettijohn, 467 Fifth Ave., New York City, N. Y.:

The undersigned film exchanges have awards from the Joint Board of Arbitration against Universal Theatre Corporation on claims filed against J. W. Cotter of the Fourth Street Theatre, Moberly, Missouri dated October 8th and November 16th. After weeks of evasion the Kansas City Board has advised the secretary of the St. Louis Film Board of Trade that they will not cooperate until after the matter has been taken up with New York. Why should any claim on arbitration awards be reviewed by either Kansas City or New York. If the independent exchanges cannot get cooperation let us know it. Answer through Secretary of St. Louis Film Board of Trade immediately.

United Film Service, Columbia Pictures Corporation, St. Louis Film Exchange, Progress Pictures Corporation, Gotham Pictures Exchange, Inc.

Paid.

Charge to Gotham Pictures Exchange, Inc.

Exh. 93-62, P.W.

[fol. 2680] Film Boards of Trade

Albany, Atlanta, Boston, Buffalo, Butte, Charlotte, Chicago, Cincinnati, Cleveland, Dallas, Denver, Des Moines, Detroit, Indianapolis, Kansas City, Los Angeles, Memphis, Little Rock, Milwaukee, Minneapolis, New Haven, New Orleans, New York, Oklahoma City, Omaha, Philadelphia, Portland, St. Louis, Salt Lake, San Francisco, Seattle, Washington.

469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

December 22, 1926.

Miss L. B. Schofield, Secy. St. Louis Film Board of Trade, St. Louis, Missouri.

Dear Miss Schofield: Mr. Newton of the Universal Theatres Corporation telephoned this morning that their Mr. Reinke made amicable adjustments with the distributors in the above named case, which in effect is a compliance with the award.

Please let me know if the case is closed and, if so, immediately notify Miss Menagh at Kansas City.

I am returning your file, registered mail.

With kindest regards, and wishing you a Merry Christmas, I am

Very truly yours, L. H. Flinn, L. H. Flinn, Assistant Gen'l Counsel.

Exh. 93-64, P.W.

[fols. 2681 & 2682] Western Union

Newcomb Carlton, President. J. C. Willever, First Vice-President

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

December 24, 1926.

Mr. L. H. Flinn, Asst. General Counsel, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.:

Universal Theatres Corporation Fourth Street Theatre Moberly Missouri Matter all adjusted with exchanges stop

independent distributors here expressing appreciation of Mr. Pettijohn's efforts direct to him.

St. Louis Film Board of Trade.

Charge a/c.
Exh. 93-66, P.W.

[fol. 2683] October 20, 1927.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: This will acknowledge receipt of your letter of the 17th with reference to claim brought by the Liberty Theatre Company, Mexico, Mo. against Columbia Pictures Corp.

This claim was heard by the Joint Arbitration Board while I was in Minneapolis, Minn. and I am not at this time able to give you the details of the facts leading up to the award given by the Arbitration Board. However, The Liberty Theatre Company have requested a re-hearing of this claim and this request will be referred to the Arbitration Board tomorrow. At that time I shall go over the claim with the Arbitration Board and let you have a complete report.

Yours very truly, St. Louis Film Board of Trade.
—— ——, Secretary.

Exh. 112-22, P.W.

[fol. 2684] October 26, 1927.

Mr. Gabriel L. Hess, General Attorney, Film Board of Trade, 469 Fifth Avenue, New York, N. Y.

Dear Mr. Hess: With further reference to the Liberty Theatre Company, Mexico, Mo.

When the application for a re-hearing was presented to the Board of Arbitration they voted to give the Liberty Theatre a re-hearing without going into any discussion of the merits of the request.

Two of the regular Distributor members of the Board expressed the opinion that the Board had gone too far in their award. After they had established that the contract was bona fide, they should not have gone on to direct the Exhibitor to submit dates and complete the contract within a specified time. Mr. Lehr, an Exhibitor member of the

Board, did not agree, but said that he was quite willing to vote for a re-hearing without further argument.

The case will come up again on Friday, November 4th. Will you want to know the outcome. The Exchange has already filed a counter-claim asking for payment in full.

Yours very truly, St. Louis Film Board of Trade.
—— ——, Secretary.

P. S.—Are you of the opinion that the Board exceeded its authority, so to speak, in directing the Exhibitor to complete the contract after they had decided the contract was valid? In this particular case, as soon as they established the contract, the full amount of the contract became due, as the dates were all past due.

Exh. 112-24, P.W.

[fol. 2685] St. Louis Film Board of Trade, 3312 Olive Street, St. Louis, Missouri; Film Boards of Trade, 469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

November 1, 1927

Miss L. B. Schofield, Secy. St. Louis Film Board of Trade, St. Louis, Mo.

Dear Miss Schofield: This is to acknowledge the receipt of your letter of October 26, 1927 with further reference to the Liberty Theatre Company, Mexico, Mo. controversy with Columbia Pictures Corporation.

It seems to me that having found that the contract was a valid one, and the time specified in the contract within which the exhibitor was given to perform it having expired, the Board of Arbitration had jurisdiction to incorporate in its award a direction that the exhibitor furnish playing dates, and in the alternative upon failure to do so, to award that the amount of the unpaid rentals be then paid by the exhibitor.

Such an award is in effect giving to the exhibitor an extension of time which the contract itself fixed for performance, and while the Board of Arbitration is without right to change or modify the terms of a contract, I believe

that under the circumstances and facts disclosed by this case it was warranted in making the original award.

Once an award has been made by the Board of Arbitration it is final, and a rehearing of the controversy may not be had unless it can be shown upon petition to the Board of Arbitration to set aside an award that the award was procured by corruption, fraud or undue means, or that there was evident partiality or corruption on the part of the arbitrators, or any of them, or that the arbitrators were guilty of misconduct in refusing to adjourn a hearing upon [fols. 2686-2691] sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy, or because of any other misbehavior by the arbitrators by which the rights of any party were prejudiced, or that the arbitrators exceeded their powers or imperfectly executed them so that a mutual, final and definite award upon the subject matter submitted was not made.

Upon presentation of such a petition to the Board which, of course, should be on notice to the other party to the controversy, the Board should consider the facts set forth in such petition, and if in the opinion of the Board they warrant setting aside the award upon any of the grounds above set forth, such action may be taken, in which case a new submission to arbitration of the same controversy may be had and determined.

If, however, the Board of Arbitration concludes that the facts set forth in the petition are not sufficient to warrant setting aside the award for any of such reasons, the award must stand and be complied with.

Sincerely yours, (Signed) Gabriel L. Hess, General Attorney.

HD.
Exh. 112-29, P.W.

[fol. 2692] Ex. 117

July 5, 1928.

Gabriel L. Hess, General Attorney, Film Boards of Trade, New York City.

Dear Mr. Hess: Attached hereto is copy of complaint filed before this Board of Arbitration by Universal Film Exchange against Sol Lesser operating the New Lyceum

Theatre, San Francisco. Also attached are contracts referred to in the complaint.

At the hearing on this case today, the Board requested that you be written for an opinion on the question involved. Following are the facts as stated at the meeting:

After first-run in San Francisco, the theatres which have been recognized as occupying second-run position in this particular district, are the Wigwam and the New Mission Theatres. The Wigwam plays in opposition to the other house. The admission price of the Wigwam up to June 30th, for several years, has been not less than 40¢. Runs following these theatres are called suburban runs and the houses which immediately follow second-run, are the New Lyceum and the Castro Theatres. The New Lyceum Theatre is located on Mission Street the same as the Wigwam, and just eight blocks from the Wigwam. The admission price of the Lyceum Theatre is 25¢ which price has been maintained since the house has been in operation, a period of seven years.

On account of business conditions, the Wigwam Theatre has reduced its admission price to 15¢. The Wigwam has a contract with Universal Film Exchange which does not specify admission price, but which does specify that it is to be second-run in San Francisco. Universal states that this contract was given the Wigwam Theatre as second-run house charging an admission price of 40¢, but neglected to state the price in the contract. The Wigwam Theatre is therefore in a position to compel Universal to deliver the pictures to them even tho they are charging an admission price of 15¢, which admission price in San Francisco places all runs behind second and third runs.

The New Lyceum Theatre's contract with Universal Film Exchange specifies an admission price of 10¢-25¢, and inasmuch as Mr. Lesser is charging 25¢, he refuses to continue the booking the pictures in question, following the showing of these subjects at the Wigwam Theatre for a lesser price than he charges at the New Lyceum.

[fol. 2693] San Francisco is divided into zones consisting of Downtown District, The Mission District, in which the theatres mentioned above are located, the Richmond, Sunset, Marina, Northbeach, Fillmore and Polk Districts. In all of these zones it is an established custom that no theatre

charging 15¢ is to be furnished with a picture until after that picture has been served to all houses charging a higher price of admission, regardless of what zone the theatre is in.

I have shown the Board your letter of March 12th with reference to a somewhat similar situation, but they do not believe it is entirely applicable to this case. It is their thought that certainly there must be a parallel case in some other large city, which can be cited as an example in deciding the merits of this case regarding Universal's compelling the New Lyceum to show these pictures under the conditions stated above.

We anticipate that numerous other claims will be filed soon along this same line, as a result of the Wigwam Theatre reducing the admission price, and we would appreciate very much having your opinion in this matter. The Board did not render a decision in this case, but postponed the final hearing until the next meeting of the Board.

Kindest regards.

Sincerely yours, Board of Arbitration. —— ——,
Acting Secretary.

RF.

[fol. 2694] Ex. 119

Film Boards of Trade

Albany, Atlanta, Boston, Buffalo, Butte, Charlotte, Chicago, Cincinnati, Cleveland, Dallas, Denver, Des Moines, Detroit, Indianapolis, Kansas City, Los Angeles, Memphis, Little Rock, Milwaukee, Minneapolis, New Haven, New Orleans, New York, Oklahoma City, Omaha, Philadelphia, Pittsburgh, Portland, St. Louis, Salt Lake, San Francisco, Seattle, Washington.

469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

July 10, 1928.

Miss Clare Foley, Secretary San Francisco Film Board of Trade, San Francisco, Calif.

Dear Miss Foley: It sems to me that the facts set forth in your letter of July 5, 1928 are not distinguishable from

those stated in your letter of March 7, 1928, upon which I rendered an opinion by letter bearing date March 12, 1928, with the exception of your statement of what is the custom in the trade.

Accordingly, I adhere to the opinion I expressed in my letter of March 12, 1928, and I believe a reduction of admission price by the Wigwam Theatre would not be a justification for the New Lyceum's refusal to continue with its contract with Universal (unless it can be shown by clear and convincing proof that the custom of the business in your territory was known to the parties to the contract between the respective theatres and Universal, and that they made and entered into their respective contracts contemplating such custom.)

The test is probably the practical one whether reasonable contracting parties might fairly be assumed to have entered into the written contract in question and have intended to be bound both by its express terms and also by the terms of a custom which is recognized as such in the trade.

Accordingly, one who seeks to add a term to a contract proof of custom must either show that the other party was actually aware of the custom, or must show that there was a well-defined custom generally adopted by those engaged [fol. 2695] in the business to which the contract relates at the place where the contract was to be performed.

A person entering into a contract in the ordinary course of business is presumed to have done so in reference to any existing usage or custom relating to such business; and this is so whether he knew the custom or not.

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

19:31.

[fol. 2696] Ex. 120

Airmail

July 18, 1928.

Gabriel L. Hess, General Attorney, Film Boards of Trade, New York City.

Dear Mr. Hess: Your letter of July 10th with reference to the question of changing admission prices when same are

not written in the contract, was read at the meeting of the Board of Arbitration in connection with the hearing of the complaint of Universal against Sol Lesser, operating the New Lyceum Theatre, San Francisco.

After reading and discussing your letter carefully, the Arbitration Board has again postponed final decision on this case until next meeting, and has instructed that you be written again with reference to this matter.

Universal have stated that in view of the consideration given to the element of custom as outlined in your letter of July 10th, they will file complaint immediately against the Wigwam Theatre for violation of established custom by reducing their admission price. The members of the Arbitration Board do not see how they can taken into consideration the custom of business in this territory with reference to the transaction between the Lyceum Theatre and Universal, unless also that same element of custom will enter into the contract between Universal and the Wigwam Theatre, which theatre reduced the admission price.

The Arbitration Board would like your opinion as to what recourse Universal has against the Wigwam Theatre on account of their changing the admission price, providing it is established by clear and convincing proof that it was the custom of business in this territory for the Wigwam Theatre which is the first-run in its zone, to charge 40¢ admission. The Arbitration Board would like to know if they would be within their rights under the terms of the contract between Universal and the Wigwam Theatre on which no admission price is specified, to make a decision in favor of Universal, taking into consideration the element of custom and requiring the Wigwam Theatre to play the pictures in accordance with a 15¢ admission. In other words, there is an established custom of the run of 15¢ houses and Universal will ask that the Wigwam be placed on an equal basis of run with any other 15¢ theatre in the city. The Arbitration Board would like to know if they would be within their rights in making a decision in a con- [fol. 2697] troversy between Universal and the Wigwam Theatre, taking into consideration established and proven custom in the trade here with reference to admission price.

We would also like to have your opinion as to whether

or not the fact that an exhibitor is forced to change his admission price on account of business conditions, would affect the status of the contract between the exchange and exhibitor, when no admission price is specified, but established custom with reference to admission price prevails.

The Arbitration Board asks that you be advised that their decision will be influenced by your opinion in this matter, and they wish your opinion on the question.

The Wigwam contract reads, "First-run, Mission District." It contains no admission price.

The Lyceum contract reads, "Suburban run-admission price 10-25¢." This means after first-run Mission District.

Very truly yours, —— ——, Executive Secretary.

CF R.

P. S.—May we please have your reply by return mail so that we may have it for the next meeting of the Arbitration Board.

C. F.

[fol. 2698] Ex. 122

August 10, 1928.

Gabriel L. Hess, General Attorney, Film Boards of Trade, New York City, N. Y.

Dear Mr. Hess: On July 18th we wrote you airmail requesting a supplementary opinion on the arbitration complaint of Universal against Sol Lesser operating the New Lyceum Theatre, San Francisco.

This case has since been settled but the Board would like your opinion on same for its information and guidance.

Very truly yours, —— ——, Executive Secretary

CF R.
2 e.

[fol. 2699] Copy

August 24, 1928.

Miss Clare Foley, Secretary, San Francisco Film Board of Trade, San Francisco, Calif.

Dear Miss Foley: With further reference to the controversy between Universal and Sol Lesser operating the

New Lyceum Theatre, San Francisco, and in reply to your letter of July 18, 1928 requesting a further opinion:

If proof can be made of a recognized custom in the trade such as you outlined in the correspondence between us concerning the controversy above referred to, it seems to me that Universal would be justified in claiming that the Wigwam Theatre breached its contract by reducing its admission price to 15¢, upon the theory that while the contract does not provide that the Wigwam maintain a 40¢ admission price, it may be fairly assumed that the parties to the contract because of the custom above referred to intended to be bound by it and that the contract was made with such custom in mind.

If a claim is so made and the proof in the judgment of the arbitrators warrants an award, I believe the arbitrators would have the authority under the general powers granted them in the Rules of Arbitration to direct what shall be done by either or both parties with respect to the matter in dispute (See Rule 11 Arbitration Rules), to direct the Wigwam Theatre either to maintain the customary price of admission consistent with the run granted it, or in the alternative to accept, pay for, and exhibit the pictures contracted for in the order in which they are customarily run by theatres located in the same zone or district where the Wigwam Theatre is located charging a 15¢ admission price.

In my opinion, a change in business conditions does not excuse a breach of contract.

Sincerely yours, Gabriel L. Hess, General Attorney.

[fol. 2700] Ex. 126

March 7, 1928.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 Fifth Ave., New York City.

Dear Mr. Hess: Attached hereto are copies of two complaints filed before this Board of Arbitration, one filed by Golden State Theatres & Realty Corporation operating the Victory Theatre, San Jose, Cal. against F. B. O. and the other by F. B. O. against the National Theatres Syndicate, operating the National and American Theatres, San Jose.

At the hearing of these two cases before the Board of Arbitration today, that Board requested that you be written for an opinion on a question which came up. These cases were heard simultaneously as both involved the same controversy.

On July 25, 1927, the Victory Theatre signed contracts with F. B. O. for second run in San Jose. The Victory Theatre charges 15¢ admission and bought the F. B. O. pictures to run after the American and National theatres. There is nothing in one Victory Theatre's contract in regard to admission price but they always charged 15¢ and that was the understanding when the contract was taken.

On August 22, 1927, F. B. O. signed contract with National Theatres Syndicate for first run exhibition in San Jose for either the American or National Theatres, with no specification in the contract as to admission price. At the time of the execution of the contract the National Theatre was charging 25¢ and the American Theatre an amount greater than 25¢. The National Theatres Syndicate requested the following protection clause, which was placed in the contract: "Protection period, 60 days clear-nce over either the Victory or Lyric Theatres."

The Board is of the opinion that the National Theatres Syndicate had notice that a contract for the same pictures existed with the Victory Theatre for second run at the time they executed the first run contract, and you will note in their complaint, F. B. O. states it was specifically understood with the National Theatres Syndicate at the time of the sale that they were negotiating for this product second run at the Victory Theatre.

Commencing some time in January the National Theatres Syndicate reduced the admission at the National Theatre to 15¢ and are playing the F. B. O. pictures first run at the National at the 15¢ admission. On February 15-16-17-18 [fol. 2701] the National played the F. B. O. picture Dead Man's Curve at 15¢. The Victory Theatre has refused to play this picture and filed claim with this Board asking to be relieved from all obligation to play pictures second run after the National plays them first run at 15¢.

The Board would like your opinion as to whether or not there was a meeting of the minds of the parties on the question of admission price, even though it was not speci-

fied in the contract. Also did the National Theatres breach their contract by lowering the admission price to 15¢ when they were charging 25¢ when the contract was executed? Are National Theatres liable for any damages to F. B. O. which that company may sustain through the compulsory default of their contract with the Victory.

We will appreciate your opinion on this matter by return mail so that we may have it for the next Arbitration Meeting. The final decision on this case has been postponed until that time.

Kindest regards.

Sincerely yours, Joint Board of Arbitration. ——
——, Secretary.

CF.
3 F.

[fol. 2702] Ex. 127

Film Boards of Trade

Albany, Atlanta, Boston, Buffalo, Butte, Charlotte, Chicago, Cincinnati, Cleveland, Dallas, Denver, Des Moines, Detroit, Indianapolis, Kansas City, Los Angeles, Memphis, Little Rock, Milwaukee, Minnapolis, New Haven, New Orleans, New York, Oklahoma City, Omaha, Philadelphia, Pittsburgh, Portland, St. Louis, Salt Lake, San Francisco, Seattle, Washington.

469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

March 12, 1928.

Via Air Mail:

Miss Clare Foley, Secy. San Francisco Film Board of Trade, San Francisco, Calif.

Dear Miss Foley: In your letter of March 7, 1928, you state that the San Francisco Board of Arbitration would like my opinion "whether or not there was a meeting of the

minds of the parties on the question of admission price, even though it was not specified in the contract." Also, if in my opinion, the National Theatres breached its contract by reducing the admission price to the National Theatre to 15c from 25c (the admission price charged at the time the contract with FBO was executed); and whether or not the National Theatres Syndicate is liable for damages which FBO may sustain because of the refusal of the Victory Theatre to complete its contract.

It appears from the statement of facts in your letter that on July 25, 1927 a contract was entered into between FBO and an exhibitor operating the Victory Theatre for certain pictures which were to be exhibited second run after the American and National Theatres; that while the Victory Theatre charges 15c admission there is no provision in the contract in respect to admission prices, excepting that which is contained in the article of the Standard Exhibition Contract in such respect; that about one month after that contract was made, FBO and the National Theatre Syndicate on August 22, 1927 entered into a contract evidently for the same pictures, but to be exhibited first run at either the National or the American Theatres, which contract provided for 60 days' clearance over either the Victory or the Lyric Theatres; that in this contract there was no provision made in respect to the admission prices to be charged other than the provision of the Standard Exhibition Contract; that at the time these contracts were made, the American Theatre [fol. 2703] charged more than 25c and the National Theatre charge 25¢ as admission prices.

The contract for the American or the National Theatres omitted to fix a minimum admission charge greater than 10c, the amount fixed in the Standard Exhibition Contract. Therefore, it seems to me the Board of Arbitration in the absence of written evidence to the contrary, must hold that the operator of these theatres did not agree to maintain the admission prices which prevailed at the time the contract was entered into. The fact that the contract was executed with the knowledge of the admission prices of the Victory Theatre does not affect this conclusion, particularly as the operator of these theatres specifically provided for a clearance of sixty days for the first run over the second run at the Victory.

There is no implied obilgation on the part of an exhibitor to maintain the admission prices prevailing at his theatre at the time he enters into a contract for pictures, excepting in respect to the minimum admission price provided for in the Standard Exhibition Contract. If the distributor makes it a condition that such prevailing prices be maintained, such condition should be set out in the contract.

Accordingly, the answer to the first quesetion is that the minds of the parties did not meet on the question of admission price, because in the absence of a provision in the contract in such respect it must be assumed that the subject was not discussed.

After reaching this conclusion, the answers to the remaining questions are:

(a) The National Theatre did not breach its contract by reducing admission prices to 15c; and

(b) The Victory Theatre is without justification in refusing to continue performance of its contract because the National Theatre lowered its admission prices.

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

HD.
2 f.

[fol. 2704] Ex. 203

July 13, 1927.

Mr. Gabriel L. Hess, General Attorney, 469-5th Ave., New York, N. Y.

Dear Mr. Hess: Replying to your communication of the 7th instant in re complaint made concerning the towns of Raymond and Knowles wherein a member of this Board reported that one other member failed to comply with the terms of the arbitration award in demanding security, etc.

Please be advised that this matter is now entirely satisfactorily adjusted and our files closed. The award is still pending, however, and this exhibitor cannot be located, but the complaining distributor has in effect withdrawn his complaint against the other distributors.

Very truly yours, Milton A. Nathan, Atty. & Ex. Secy.
MAN: SW.

[fol. 2705] Ex. 203 A

Film Boards of Trade

Albany, Atlanta, Boston, Buffalo, Butte, Charlotte, Chicago, Cincinnati, Cleveland, Dallas, Denver, Des Moines, Detroit, Indianapolis, Kansas City, Los Angeles, Memphis, Little Rock, Milwaukee, Minneapolis, New Haven, New Orleans, New York, Oklahoma City, Omaha, Philadelphia, Pittsburgh, Portland, St. Louis, Salt Lake, San Francisco, Seattle, Washington.

469 Fifth Avenue, New York

Charles C. Pettijohn, General Counsel; Gabriel L. Hess, General Attorney

July 7, 1927.

Mr. Milton A. Nathan, Secy. San Francisco Film Board of Trade, San Francisco, Calif.

Dear Mr. Nathan: We are advised that in the towns of Raymond and Knowles controlled by one exhibitor against whom an award had been made by the San Francisco Board of Arbitration, and who had failed to comply with such award, two of your members, in violation of the Rules and Regulations Relating to Arbitration, are supplying service to this exhibitor, notwithstanding the exhibitor's failure to comply with their demands for security for the performance of their contracts.

When attention to your Board is called to such fact, we are informed that the complaining exchange is asked to prove the conditions complained of.

It seems to me this indicates a lack of cooperation among the members. Will you be good enough to inquire into the facts and report to me in detail thereon at your earliest convenience?

Sincerely yours, (Sgd.) Gabriel L. Hess, Gabriel L. Hess, General Attorney.

Ex. 203A.

[fol. 2706] Pathe Exchange, Inc., Executive Offices, 35 West 45th Street, New York

FU—3/7/27.
GLH.

February 28, 1927.

Mr. C. C. Pettijohn, Film Boards of Trade, 469 Fifth Avenue, New York City.

Dear Mr. Pettijohn: Please note attached correspondence regarding the decision of the Joint Arbitration Board in the case of the Community Theatre, Pine Bluff, Ark. against us.

This seems most unfair to us and after going over the matter we feel sure you will agree the ruling of the local Arbitration Board be rescinded and a proper award made.

Will appreciate your letting us know what is done in the matter, at the same time returning attached letters for our files.

With kind personal regards,

Very truly yours, Pathe Exchange, Inc. Harry Scott, General Sales Manager.

H. Scott/EL.
Encl.
(Trade Mark.)
Please address all communications to the company.

[fol. 2707] Rec'd H. O. Pathe Exchange, Inc., 9, Feb. 23, 1927.

To ——. Ans'd ——. Filed ——.

Pathe Exchange, Inc. Inter-Office Correspondence. Written at New Orleans, La. Date: February 23, 1927.

Subject: ——.

To Pathe Exchange, Inc., at New York City.
Attention of Mr. Harry Scott, Gen. Sales Mgr.

Dear Mr. Scott: We have today received a letter from Mr. Boyd of the Memphis Branch, relative to the decision of the Joint Arbitration Board in the case of the Community Theatre, Pine Bluff, Ark., against us. The facts of the case, briefly, are this:

The Memphis Associated Office sold a number of pictures to the Community Theatre first run. Later Saengers

wanted the pictures and Mr. Kelly, who was at that time Associated Manager here, wrote and wired Mr. Seigle of the Community at Pine Bluff, requesting him to release the pictures, which he refused to do.

Despite Mr. Seigle's refusal, Kelly went ahead and sold the pictures to Saengers, and several of them were dated and played at the Best Theatre, the Saenger house in Pine Bluff.

The Saturday before the case came up before the Memphis Joint Arbitration Board, we secured a release from Saengers of the entire group of pictures undated and telephoned Mr. Boyd, at Memphis, advising him of this. Today we were surprised to receive a letter from Mr. Boyd that the Memphis Joint Arbitration Board have made the following award:

That we furnish the balance of the unplayed pictures to the Community, at Pine Bluff, as per contract. That we furnish them gratis repeat runs on all the pictures played first run by the Best Theatre (Saengers' house in Pine Bluff), and that we pay the Community Theatre $30.00 for each picture palyed by Saengers first run. Also, that we pay Mr. Seigle's expenses for three trips to and from Pine Bluff to Memphis, total $285.00.

Think so too. EOE.

We believe that this verdict is out of order and that the [fol. 2708] Film Boards of Trade Home Office will not uphold it. The only expense for which we are liable to Mr. Seigle are the ones incurred by him for the trip he made to Memphis when summoned by the Joint Arbitration Board. For the two trips which he made of his own volition to see Mr. Boyd and the Film Board of Trade, we are not liable. Also, we do not believe that we are liable for both the cash settlement and second run on the pictures which were played by Saengers, and we believe that if this matter were brought to the attention of Mr. Pettijohn, or Mr. Gabriel Hess, that either of them would hold up our contentions.

We assume that inasmuch as the New Orleans office was at fault in this matter, that we will be charged with the expenses incurred by Mr. Seigle, also with the amount of the penalty. Before, however, taking any steps to meet same,

we will be obliged if you would kindly let us have your advice in the matter.

With best wishes, we remain

Very truly yours, Pathe Exchange, Inc. A. W. Plues, Branch Manager.

AWPlues/LW.

[fol. 2709] New Orleans, La., February 23, 1927.

Mr. C. F. Boyd, Branch Manager, Memphis, Tenn.

DEAR MR. BOYD: We are in receipt of your letter of February 22nd, relative to the decision rendered by the Memphis Joint Arbitration Board in the case of the Communnity Theatre, at Pine Bluff, Ark., against this Co-pany.

We cannot quite make out from your letter whether Mr. Seigle is to pay for the pictures which he uses first run, or whether they are to be gratis, if the latter, the award of the Arbitration Board is out of order and will not be upeheld by the New York office of the Film Boards of Trade.

Recently a similar case came up in New Orleans, and a decision rendered by the Joint Arbitration Board against Fox Film Corporation compelling them to give about thirty features to the Imperial Theatre, New Orleans, gratis. The Fox home office refused, however, to live up to the award and were upheld by Mr. Gabriel Hess, and as a result a cash *cash* settlement was made with the Imperial Theatre, and no pictures were given.

In regard to the expenses awarded by the Memphis Joint Arbitration Board to Mr. Seigle, this also is out of order. He is entitled to expenses to and from Pine Bluff once only, namely, on the date on which he attended the meeting of the Joint Arbitration Board. He is not entitled to any expenses for coming to Memphis merely to come and see you or the Secretary of the Film Board of Trade, nor can such expenses be charged against us. He could just as well have transacted his business by correspondence previous to the hearing, and we are certain that the Film Boards of Trade's home office will uphold us in this matter.

[fol. 2710] We are today sending you a list of the pictures furnished by us to Saengers first run, a list of the pictures used by Mr. Seigle first run, and a list of the pictures still available for Mr. Seigle first run in Pine Bluff.

We are sending a copy of our letter to Mr. Scott, with the request that he take the matter up with Mr. Pettijohn or Mr. Hess.

With best wishes, we are

Very truly yours, Pathe Exchange, Inc. —— ——,
Branch Manager.

AWPlues LW.

CC: Mr. Scott.

P. S.—We note that you state that we never replied to your request for the names of the Western and Dog pictures delivered by us to Saengers. Reference was made to this letter in a communication we had from you yesterday. Please let us inform you again that if such a letter was sent by you, we have never received it, nor any request whatsoever for any letter or records in this matter. A.W.P.

[fol. 2711] March 1, 1927.

Mr. Harry Scott, General Sales Manager, Pathe Exchange, Inc., 35 West 45th Street, New York.

DEAR MR. SCOTT: This is to acknowledge receipt of your letter of February 28, 1927 to Mr. Pettijohn concerning the controversy between the Community Theatre, Pine Bluff, Ark. and Pathe Exchange, Inc.

I have written to the Secretary of the Memphis-Little Rock Film Board of Trade for a complete and detailed report of the facts, and for a copy of the award, upon receipt of which I will again communicate with you concerning this matter.

Very truly yours, Gabriel L. Hess, General Attorney.

[fol. 2712] FU, 3/7/27.

C. C. Pettijohn.

March 1, 1927.

Mrs. Lola Adams Gentry, Secretary Memphis-Little Rock Film Board of Trade, Memphis, Tenn.

DEAR MRS. GENTRY: Please furnish me with a detailed and complete report of the facts of the controversy between the Community Theatre, Pine Bluff, Ark. and Pathe upon which the Board of Arbitration recently made an award, together with a copy of the award and the reasons, if any, stated by the arbitrators for making the award.

Yours very truly, Gabriel L. Hess, General Attorney.

[fol. 2713] Ex. 289

March 4, 1927.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, New York, N. Y.

Dear Mr. Hess: Your letter of March 1st asking for detailed and complete report of the facts of the controversy between the Community Theatre, Pine Bluff, Ark., and Pathe upon which the Arbitration Board recently made an award has been in the office for several days but mislaid.

Mr. Roland Siegle, Community Theatre, Pine Bluff, Ark., under dates of April 1st, 1926, April 13th, 1926 and May 10, 1926, entered into contract with Associated for 39 pictures, this, after Association had wired their N. Y. Office for permission to do so and receiving it. These contracts were approved under dates of April 10th and 21st; and May 25th. Mr. Siegle submitted dates and received bookings from Associated up to and including August 16th, 1927, and played five pictures on the contracts first run; the contracts all specifically calling for first run. He then began to receive telegrams, letters and personal visits in an attempt to get him to release Associated from these contracts. This he refused to do until Mr. Mitchell, the then Associated Manager, came to his town and staid several days begging and entreating Mr. S. to release him stating that unless he did Mr. Mitchell would lose his job. Mr. Siegle finally agreed to use four Western pictures on his contract second run to see how he came out. These pictures were to be furnished him gratis, and were. It seems he had some Dog pictures on these contracts and Mr. Mitchell had told him Saenger did not want these, but instead of Saenger playing four Westerns under this agreement they played three Westerns and a Dog picture. Mr. Siegle then advised Associated in writing that he was losing money playing second runs and would not play any more but demanded that his contract be lived up to. Some place along the line service on his contract was transferred to New Orleans and upon being notified of this change Mr. Siegle made a written protest stating he preferred service from Memphis because of difference in express rates, etc.

Months passed and Mr. Siegle claims and proves that he could get no satisfaction and his opposition, Saenger, was playing pictures for which he held contracts.

[fol. 2714] On or about December 31st Mr. Siegle and Mr. Eli Whitney Collins, President National M. P. T. O. A. came to this office with correspondence and claim. Mr. Collins told me he disliked to have anything of this nature come up but he felt it was only fair that an exhibitor get the same break that a distributor got; that exhibitor's were expected to live up to their contracts and therefore distributors should do likewise He said that Mr. Siegle had been treated shamefully about his contract and all Mr. Collins would ask was a fair and impartial hearing, but unless Mr. Siegle got that the M. P. T. O. A. would be forced to take a hand. He further stated he did not fear the outcome of a decision rendered by our Arbitration Board because he had always found them fair in every respect.

I went over the correspondence and found positive evidence that they had plenty to substantiate their charge and although I have returned Mr. Siegle his correspondence, I can easily get it and forward to you and I believe you will find some interesting evidence in it. Mr. Siegle told me he would be glad to cancel Associated contracts if he could buy first run Westerns, etc., from any of the other Exchanges but that he was unable to do this because of Saengers. I felt this was not a case for the courts and I did what I could to effect a settlement.

When the case came before the Arbitration Board, February 21st, after having been postponed one month at the request of Pathe, we found the following facts to exist.

Contracts for 39 first run pictures; five of which Mr. Siegle had played first run; which Saenger never had; 8 pictures for which he held contracts were played first run by Saenger (this may possibly be increased to 9 because of the fact that Saenger had a picture advertised for showing on the Saturday following our meeting on Monday and which may or may not have been played; 4 of these pictures Mr. Siegle had played second run. Mr. Siegle told me that he couldn't even get second run after the controversy started. Mr. Siegle at no time ever refused a picture sent him. Mr. Siegle in the presentation of his case pointed out to the Board that for months he never knew whether he was

going to get the pictures which had been booked and confirmed to him, never knowing whether to supply himself with a substitute or not. He claimed several blow-ups because the pictures did not come, other times he had been compelled to rush over to Little Rock to get pictures to substitute, stating that all his patrons were asking him why he was not playing the pictures he had promised them, pointing out that Saenger *were* playing them. He asked in his complaint for $150.00 per picture on all pictures which Saenger had played first run for which he held contract.

Mr. Boyd in presenting his side, told the Arbitration [fol. 2715] Board, having previously told the members of the Film Board at their meeting, that Siegle had a just claim but contented that Mr. Siegle was asking too much damage per picture. He offered to give Mr. Siegle $30.00 for all pictures played first run by Saengers, give him the remaining unplayed pictures first run and pay Mr. Siegle's expenses to Memphis. He stated to the Board that Mr. Siegle had told him he would be glad to accept that in settlement but that he had promised Mr. Collins that he would not accept a compromise and that Mr. Collins had insisted upon him asking $500.00 per picture. Mr. Boyd told me this on Sunday night preceeding our meeting on Monday, saying he had just left Mr. Siegle. Later I asked Mr. Siegle if that was the case, not telling him where I heard it, and he was furious and said it was positively untrue and that he had never said that to any one and would be willing to back the statement up any time. I know to a certainty that Mr. Collins urged Mr. Siegle to be reasonable in his demands but stated that in case the claim had to go to court that damages would necessarily be greater because of the greater cost. The $500.00 enters because of the fact that Mr. Siegle played a picture which Saenger had first run contract for and the Manager of Saenger's told Siegle that Metro had paid them $500.00 for the breach, and Mr. Siegle based his demand for $150.00 on the fact that he not only lost money, but prestige, claiming excessive worry due to the fact he had never known whether a picture was coming to him or not, blow-ups, etc., stating he thought $150.00 reasonable in view of damages paid

Saenger. This matter of $500 was not substa-tiated nor disproven by either side, however.

The exhibitor members were solid in the stand that Mr. Siegle had not only a just claim but that the damages asked were reasonable and not excessive, pointing out that they had sat upon case after case where awards had been given in favor of distributors against exhibitors who had failed to live up to their contracts.

The Exchage members contended that Mr. Siegle should submit a statement of his receipts to them in order for them to determine just how much he took in and then base his damage on that. The exhibitor members advised him not to do it, stating clearly and emphatically that it was none of the Exchanges business what an exhibitor made. Mr. Siegle finally said he would submit that kind of a statement but the arguments continued on one thing and another until a motion was made by Mr. Sipe, Manager for Universal, that inasmuch as Mr. Boyd had offered to pay $30.00 a picture for all pictures which Saenger had played first run and give same to Siegle gratis, and pay Mr. Siegles expenses, that he felt that to be a fair proposition and thought settlement should be made on that basis.

The argument had lasted almost two hours and every one was worn out and finally Mr. Siegle was called in and [fol. 2716] the motion, Siegle's, which appears in the award, which I am sending you, was read to Mr. Siegle and he shook his head — said he would accept it if they all thought they were giving him a square deal, that he had been wrestling with it for almost a year never knowing where he stood and was now thoroughly disgusted. The motion was then seconded and carried and read to both Mr. Siegle and Mr. Boyd and the matter closed.

Mr. Boyd told the members at their meeting on the Morning of Feb. 21st that Mr. Collins would not let Mr. Siegle settle; that Mr. Collins intended to enter the case and get credit for settling same, etc. Mr. Collins did not even come to Memphis and I for one feel certain Mr. Collins' interest in the matter was purely honest, wanting only to see that justice was done.

I have not been advised whether the award has been complied with or not. I was anxious to get it settled peace-

ably and I believe you will agree with me, that was much the better course to pursue.

Mr. Boyd at a previous Board meeting asked the member's indulgence and told them of this case, stating that the New Orleans Board wanted to try the case in New Orleans. Our Board's decision was that this was the place to handle it and personally I am glad we did handle it.

I have written this report three times trying to shorten it but have not succeeded. Hope it is clear and not too long but you asked for a complete one and you have it. If there is anything I have not made clear or anything you wish to know further about the case, please do not hesitate to write me.

Yours truly, Lola Adams Gentry, Secretary.

P. S.—It is my belief that you will find upon investigation that Saenger's contract which included Siegle's pictures was taken after Siegl-'s, but I am not certain about this. Mr. S. told me however, that when he talked to Mr. Plues New Orleans Manager, that after Mr. Plues saw Mr. Siegle's contract and compared notes, that Mr. Plues just shook his head.

[fol. 2717] March 8, 1927.

Mrs. Lola Adams Gentry, Secretary, Memphis Little-Rock Film Board of Trade, Memphis, Tenn.

DEAR MRS. GENTRY: This is to acknowledge receipt of your letter of March 4, 1927, reporting in detail as to the controversy between the Community Theatre, Pine Bluff, Ark., and Pathe Exchange, Inc. for which I thank you.

I note your remark that you have rewritten your report several times in the endeavor to shorten it. You need not at any time shorten your reports, because the more details we have, the better position we are in to understand the facts in a given case.

Sincerely yours, Gabriel L. Hess, General Attorney.

P. S.—I am returning to you herewith the two enclosures which accompanied your letter, namely, original letter of Roland Siegle (Community Theatre), to you, dated December 31, 1926, and the original award. G. L. H.

(2 encl.)

P. S. (2)—I am not enclosing these papers now, but will send them at a later date. G. L. H.

[fol. 2718] FB Memphis.
FU 3 17 27. MG.

C. C. Pettijohn. P—FB—NY—Pathe. X Siegle, Roland.

March 8, 1927.

Mr. Harry Scott, Genl. Sales Mgr., Pathe Exchange, Inc., 35 West 45th Street, New York.

Dear Mr. Scott: With further reference to your letter of February 28, 1927 concerning the decision of the Memphis-Little Rock Board of Arbitration in the case of the Community Theatre, Pine Bluff, Ark. against Pathe Exchange, Inc., enclosed is a report of the Secretary of the Memphis-Little Rock Film Board of Trade.

In view of your Mr. Boyd's evidence and offer, it seems to me that the award was a fair one. After you have read this report, will you be good enough to return it to me?

Sincerely yours, Gabriel L. Hess, General Attorney.

Enclosure.

P. S.—The enclosures herein consist of original report by the Secretary of Memphis Film Board, original letter from Roland Siegle (Community Theatre) to the Memphis-Little Rock Film Board, dated December 31, 1926, and the original award. GLH.

[fol. 2719] Pathe Exchange, Inc., Executive Offices, 35 West 45th Street, New York

March 10, 1927.

Mr. Gabriel L. Hess, Film Boards of Trade, 469 Fifth Avenue, New York City.

Dear Mr. Hess: With further reference to your letter of March 8th, concerning the decision of the Memphis-Little Rock Board of Arbitration in the case of the Community Theatre, Pine Bluff, Ark.

We are attaching a memorandum on the subject from Mr. Innerarity and returning the report of the Secretary of the Board and the original award.

After you have read Mr. Innerarity's comments, would thank you for your recommendations.

Kind regards.

Very truly yours, Pathe Exchange, Inc. Harry Scott, General Sales Manager.

H. Scott/EL.

(Picture of Rooster.) Trade Mark.

Please address all communications to the company.

[fol. 2720] (Clock receiving Stamp showing 9:00 A.M. Mar. 10, 1927.)

Note to Mr. Scott

March 9, 1927.

With reference to the attached and your notation, beg to say that any settlement we make *make* in this matter will be a purely voluntary contribution.

The whole case against Pathe is based upon the erroneous supposition that Associated Exhibitors has merged with Pathe, and that Pathe is liable for the obligations of Associated Exhibitors.

I deem it highly inadvisable that we establish any such precedent or permit the Arbitration award based upon such supposed state of facts to stand unchallenged.

You will note that the letter of December 31, 1926, addressed to the Memphis-Little Rock Film Board of Trade states "I herewith file with the Board complaint against Associated Exhibitors, Exchange," and then goes on to state its cause of complaint.

There is no suggestion that Pathe has done anything. The letter of March 4th, 1927, addressed to Mr. Hess by the Secretary of the Film Board of Trade indicates clearly that Associated Exhibitors and its employees committed all of the acts which gave rise to the claim.

It appears to be true that our Branch Manager did enter into a discussion of the case, apparently because he was misinformed as to Pathe's obligations in the matter, but that does not alter the circumstances in the least, nor impose any obligation upon Pathe.

You, of course, know that Pathe has not absorbed Associated in any sense of the word, nor assumed any of its obligations, nor taken assignment of any of its contracts. Such pictures as we are now distributing which were formerly distributed by Associated Exhibitors are being handled by us under contracts made directly with the owners of the pictures independently of Associated Exhibitors, except to the extent necessary to carry out the existing contracts with Exhibitors made by Associated. In delivering film to Exhibitors pursuant to such contracts with Associated we have acted solely in the capacity of an agent whose sole duty was to make delivery of the films called for by such contracts at a specified time and receive payment for same.

[fol. 2721] From the correspondence it would appear that the Exhibitor has a perfectly valid claim against Associated Exhibitors. The fact that it may be difficult, if not impossible, to collect from Associated does not alter the fact that Associated solely is liable, and there is no more reason for filing claim against Pathe or rendering an award against Pathe than there would be for rendering an award in this very case against Famous Players or some other distributor. I am quite sure that if Associated were financially able to pay, no one would suggest that Pathe had any liability in the matter.

I suggest that a letter be sent to all branches making it perfectly clear that Pathe has not assumed any liability for any obligation of Associated Exhibitors, nor has it absorbed the company, nor taken over its assets, and that our Branch Managers should not undertake to defend any claim by Arbitration Boards arising out of any contracts with Associated Exhibitors, except to serve notice upon such Boards that Pathe is under no liability and will not recognize any claim.

Much of these difficulties seems to arise from the ignorance of the Branch Managers as to the true situation. I think they should be fully informed.

(Initialed) L. I., Secretary.

Lewis Innerarity JB.

[fols. 2722 & 2723] Charge to the account of C. C. Pettijohn, 469 Fifth Avenue.

Western Union Telegram

Newcomb Carlton, President. J. C. Willever, First Vice-President

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

March 11, 1927.

Lola Adams Gentry, Secretary Memphis-Little Rock Film Board of Trade, 103 South Second Street, Memphis, Tennessee:

Mail me titles of all pictures involved in controversy between Community Theatre Pine Bluff and Pathe.

Gabriel L. Hess.

FU.
3 14.

The quickest, surest and safest way to send money is by telegraph or cable.

[fol. 2724] Ex. 290

March 12, 1927.

Mr. G. L. Hess, General Attorney, Film Boards of Trade, New York, N. Y.

Dear Mr. Hess: Immediately upon receipt of your wire I got in touch with Roland Siegle to get the names of the pictures under controversy with Community Theatre, Pine Bluff, Ark., and Pathe Exchange. While ta-king with him I asked him to send me all the correspondence, which he has done and I am now sending it on to you.

Mr. Siegle advises me that some of the product he has under contract had not been released therefore he did not know the names of the pictures. I am sending the contract and his letter showing the names of the pictures which he played first and second run, and the names of those Saenger played first run and trust this, together with the correspondence will give you what you want.

I am surprised that the award has not been complied with, in view of the fact that it was the exact proposition as made by Mr. Boyd the Pathe Manager, except for the

fact that he agreed to pay Mr. Siegle's expenses to Memphis, not stating just how many trips, and the Arbitration Board allowed him expenses for three trips, but did not give *my* anything for his extra trips to Little Rock.

This case is being watched very closely by the Exhibitors in this territory and I am fearful that unless Pathe complies with this award that the exhibitors are going to resent complying with awards made against them, especially when the award as given was practically dictated by Mr. Boyd, Pathe Manager and very much lower than the amount asked by the Exhibitor. Mr. Boyd, immediately after the award was rendered and in the presence of the Arbitration Board began going over figures with Mr. Siegle in what we all took as the final steps in the settlement of the award.

There is absolutely no doubt about the outcome of this case if it is not settled, the M.P.T.O.A. will undoubtedly take it to Court and I am sure this would result in no little harm in our territory.

[fol. 2725] Contract was taken for first run pictures after having received the O.K. from the New York office, besides a later approval of contracts, five pictures were served on the contract before the attempt was made to get Siegle to permit Saenger to have first run on his contract. Siegle, after all sorts of pressure was brought to bear, agreed to try four pictures second run to see how he would come out, Westerns being stipulated. He claims he found he was not doing any good with them and then insisted upon the fulfillment of his contract. The account was transferred to New Orleans, to which Mr. Siegle objected. He has records of being blown-up, failure to get pictures although he has confirmed bookings, proof of his trips to Little Rock to get substitute pictures, which has been borne out by our Little Rock Managers, etc.

Mr. Boyd, stated to the Board of Arbitration, that Mr. Siegle had told him he would settle for $30.00 per picture and get it gratis for second runs because some nights he only took in $30.00. When Mr. Siegle was asked about this by the Board, he laughed and said "Well, that was sales talk, Mr. Boyd was attempting to tell me how valuable his pictures were and what wonderful possibilities they had and wanting a big rental for them, so I gave him the same

line he handed me and used the $30.00 figure in the same manner he was using his figures, all sales talk."

Mr. Siegle had received and showed same to the Arbitration Board, a telegram received the day of the meeting from Saenger in which they agreed to give up any rights they might claim in the pictures he had under contract. This influenced the exhibitor members in arriving at the decision they finally agreed to.

The chairman of the Arbitration Board is an exhibitor member, Mr. Tom Young, Jr., Dyersburg, Tenn., and he always asks for a report of the cases decided at the previous meeting and knowing that this case is being watched so closely, I most certainly hope that Pathe will comply with the award before that meeting. We are getting along beautifully here with Arbitration matters, the Exchangeman getting what they want almost entirely but if this case is permitted to drag along and not be complied with, there will be only one result—and that far from favorable to arbitration and I most sincerely hope whatever the trouble is and for the life of me I cannot see what could be standing in the way of a quick compliance in view of the facts, that it will be taken care of and settled immediately.

Siegle has a first run contract of which there is no doubt, has played five pictures on it before the controversy; Pathe is guilty of a breach of that contract when they permitted Saenger to play pictures first run on that contract; Siegle has plenty of evidence of loss, both financial and otherwise extending over almost a year's time, an award was given which was identical with the proposition of the [fol. 2726] Pathe Manager, except for possible $35.00. Personally I feel Pathe is getting out exceedingly lucky and am at a loss to understand what is wrong, although I admit I do not know everything.

Respectfully, Lola Adams Gentry, Secretary.

P. S.—The pictures spoken of in the last part of Mr. Siegle's complaint are not pictures included in the 39 under controversy. He simply told about them to show that Pathe had been guilty of other breaches with him, but agreed, at my request to let them drop and not make an issue of them. You will note by correspondence that he has several just causes for complaint.

[fols. 2727-2731] Charge to the account of C. C. Pettijohn, 469 Fifth Avenue.

Western Union Telegram

Newcomb Carlton, President. J. C. Willever, First Vice-President

Send the following message, subject to the terms on back hereof, which are hereby agreed to.

March 19, 1927.

Mrs. Alma Walton, Secretary Memphis Little Rock Film Board of Trade, 103 South Second Street, Memphis, Tennessee:

Pathe Complying with award favor community theatre Pine Bluff Check going forward

Gabriel L. Hess.

The quickest, surest and safest way to send money is by telegraph or cable.

[fol. 2732] Government Exhibit 36*l*

San Francisco Film Board of Trade

Home Office Correspondence

[fol. 2733] Ex. 3

June 2, 1928.

Mr. Jack Levine, Copyright Protection Bureau, 469 Fifth Ave., New York City.

Dear Jack: Immediately upon my return to San Francisco, I called Mr. Tamblyn of the Nevada Theatre, Nevada City, on the telephone and made an appointment to see him in my office on June 13th. He could not get into the city before that date, and I thought there was no reason why the matter could not ride a couple of weeks longer.

For your information, this exhibitor has a contract with F. B. O. for Nevada City, which does not show any authority to play pictures in Downieville. However, he claims that he has an application for contract, left by the distributor, allowing him authority to play the pictures in

Downieville, and he promises to bring this application in on June 13th. He also claims that every branch manager with the exception of Metro-Goldwyn, knew of the fact that he played pictures in Downieville and sold pictures for Nevada City at prices which would allow him that privilege, but did not show that on contracts.

What I want to know, is whether or not in my conversation with this exhibitor, I should insist that he was guilty of violation of the Copyright Law when he played pictures in Downieville, on the verbal authority of salesmen and branch managers. If this is your attitude, then I understand from my conversation with you that I am to collect a minimum of $250.00 to settle his violations of the Copyright Law up to the present time. As you will recall, the only proof of these violations which we have is contained in the statement signed by the exhibitor at Downieville, and Mr. Tamblyn of Nevada City advises that Mr. Gould of Downieville will make affidavit to the effect that information contained in statement signed by him (Mr. Gould) is erroneous.

However, I believe this exhibitor will much prefer to settle this case without taking it before the Board of Arbitration and I wish you would advise me if my stand as outlined about will be correct in conversation with this exhibitor. If so, I believe I can proceed.

Best regards from myself and Ro.

Sincerely yours, —— ——, Executive Secretary.

CF R.

[fol. 2734] Ex. 4

Film Board of Trade of Philadelphia, Pa., 1337 Vine Street

Office of the Executive Secretary

Telephone: Rittenhouse 1122-1123

June 6, 1928.

Miss Clare Foley, San Francisco Board of Trade, 724 Golden Gate Bldg., 25 Taylor St., San Francisco, Cal.

Dear Clare Foley: This is to acknowledge receipt of your letter dated June 2nd, in re Mr. Tamblyn, of Nevada City.

At your meeting with the exhibitor on June 13th, I would suggest your advising him as follows:

1. That the clause in his contract which provides—"This contract is complete and no promises or representations have been made by either party to the other, except as set forth herein." Any understanding which he may have had with the salesman or any employee, which is not in writing, and made a part of his contract, is of no effect, and will be disregarded. Accordingly, if his contract for the various distributors' product states that it is to be used at one theatre, he cannot use it in two theatres.

2. That he is bound by the written terms of his contract, and when it is approved by the General Sales Manager of the distributors in New York City, it is approved upon the terms as written in it. It is a violation not only of his contractual obligations with the distributor, but also of the United States Copyright Law to use film in excess of the number of days contracted for, or to use it in any other theatre than that stated in his approved contract.

3. You have no desire to force him to come to San Francisco by submitt*ed* this complaint to the Board of Arbitration for determination. Therefore, you offer to amicably adjust this claim for the minimum of $250.00; such settlement to cover the violations which have occurred during the period of your investigation, and that he is to contract pictures for the theatre in Downieville on a proper, approved contract, endorsed by the distributors in New York City.

[fol. 2735] 4. That as the next meeting of the Board of Arbitration will be held on ——, it is essential that you hear from him not later than ——, whether he wishes to accept your offer of compromise or whether he prefers that this case be heard by the Board of Arbitration. You might advise him that in submitting this claim to the Board of Arbitration, it will be necessary, in accordance, with your instructions, from the Copyright Protection Bureau, to ask as damages the minimum allowed under the United States Copy-right Law, which is $250.00 for each such violation.

5. That you have been as liberal as possible in the matter of an offer of compromise, and that the sum of $250.00 was permitted only after you had submitted your recommendations to the Bureau, requesting the permission to settle for this amount. If he concludes to accept your offer of settlement, check should be made payable to the Copyright Protection Bureau, and mailed either to your Board or directly to the Copyright Protection Bureau, 469 Fifth Ave., New York City.

In outlining the above, I believe we have covered the arguments of the exhibitor in reference to his alleged verbal and side agreements. The fact that Downieville has been operating for some time past and for which no contracts can be disclosed, is sufficient proof to submit this case before the Board, in the event that the exhibitor does not chose to settle.

If this case is to be calendared for arbitration, as secretary of the Board of Arbitration, notify the exhibitor in advance of the hearing, to bring with him his booking book, cash book, and ledger, containing the disbursements and bookings for the Downieville Theatre. If he does not submit same at the time of the hearing, you therefore, have the right to submit your reconstruction charts as valid, secondary evidence. I would suggest that you have Ro present at the June 13th meeting, so that additional evidence, if necessary, may be procured with regard to the Downieville Theatre being open and exhibiting motion pictures at least once a week for the past year or two. If you obtain this admission in the presence of a witness, you may use same before the Board of Arbitration, to fortify your reconstruction chart with what is known as a Declaration Against Interest.

It is apparent that his competitor, Mr. Gould, in Downieville, had been approached, and now states that the affidavit made by him is erroneous. I would, therefore, disregard this affidavit.

With kindest regards to Ro, I remain,

Sincerely yours, Copyright Protection Bureau.
(Sgd.) Jas. H. Levin, J. H. Levin.

JHL.D.

[fol. 2736] Ex. 5

Board of Arbitration Copy

Claim Statement

Date: June 12, 1928.

Complainant: Metro-Goldwyn-Mayer Distributing Corporation.

Defendant: W. V. Tamblyn, Nevada Theatre, Nevada City, Calif.

Reason for Claim: W. V. Tamblyn by reason of the unauthorized exhibition of our copyrighted pictures at the Memorial Hall Theatre, Downieville, Calif., infringed the copyright, and we thereby demand that the Board of Arbitration, in lieu of our actual damages and profits, fix such damages as to the Board of Arbitration shall appear to be just; and in assessing such damages that the Board of Arbitration in its discretion, allow an amount provided for by the Copyright Law of the United States, which law provides that in such case damages shall not exceed the sum of $5000 nor to be less than the sum of $250.00.

Contracts attached	Date of contract	Signed by	Number features	Number comedies	Number short subj.	Misc.
....	....	....	....	....	....	....

Subject Played (Give number and titles): ——.

Subjects Unplayed (Give number and titles): ——.

Amount of Claim: $—. How Determined: ——.

Correspondence Attached: ——.

Signature of Complainant: Metro-Goldwyn-Mayer Distributing Corporation, by G. C. Parsons, Manager.

[fol. 2737] Ex. 7

June 14, 1928.

Mr. J. H. Levin, Film Board of Trade, 1337 Vine Street, Philadelphia, Pa.

Dear Jack: With reference to your letter of June 6th, and the matter of bicycling between Nevada City and Downieville Mr. Tamblyn called at my office per our agreement, on June 13th, and we discussed this matter at length.

At that time he informed me that three attorneys had informed him not to pay the amount requested by us, but to let the matter go to the Arbitration Board. However, I explained to him the points outlined in your letter of the 6th, and read him the Copyright Law on this matter. He finally decided to take the matter up with his partner again, and he will advise me not later than Wednesday of next week whether or not he will accept the offer of settlement in the amount of $250.00. I have every reason to believe that he will do this.

He has closed the theatre at Downieville on account of this controversy, and will sign new contracts for same when he reopens.

He brought in the application for contract from F. B. O., which very distinctly provides that the exhibitor may play the pictures in Downieville at no additional film rental. However, this was not on the approved copy of the contract which F. B. O. returned to him.

As soon as I hear from him that he will not accept a settlement, I will present my further deductions from the reconstruction to you for your further advice as to how to proceed with the complaints. However, at the present time I do not think that will be necessary. I will advise you immediately of his decision.

Very truly yours, —— ——, Executive Secretary.

CF R.

c. c. to Mr. Hess.

[fol. 2738] Ex. 8

June 22, 1928.

Mr. W. V. Tamblyn, Broadway Theatre, Nevada City, Calif.

Dear Mr. Tamblyn: This will acknowledge receipt of your letter of June 19th, in which you advise you have concluded to accept the $250.00 offer of settlement.

Miss Clare Foley is out of the City at the present time so I am unable to advise you regarding your giving a note in payment of the above. I will get in touch with her, and write you as soon as we have advice from the Copyright Protection Bureau as to their attitude.

As Miss Foley previously advised you, we have written to Washington for a copy of the Copyright Law, and we will be pleased to send it to you immediately upon receipt of same.

Kindest regards.

Very truly yours, —— ——, Acting Secretary.

RF.

[fols. 2739 & 2740] Ex. 10

Copyright Protection Bureau, Representing National and Regional Distributors of Motion Pictures in the United States, 469 Fifth Avenue, New York City

July 5, 1928.

Miss Clare Foley, Secy. San Francisco Film Exchange Board of Trade, San Francisco, Cal.

DEAR MISS FOLEY: This is to acknowledge receipt of your letter of July 2, 1928, addressed to Mr. Hess, in reference to Mr. W. Tamblyn of Nevada City, Cal.

In reference to the last paragraph of your letter, I recommend that the $250.00 in settlement of the claim against Mr. Tamblyn be paid in the following way—$100.00 as of the current date, a post-dated check for $50.00 dated August 1st, 1928, $50.00 dated September 1st, 1928 and $50.00 date Sept. 15th, 1928.

Sincerely yours, Copyright Protection Bureau.
(Sgd.) J. H. Levin, J. H. Levin.

P.

[fol. 2741] Ex. 11

Omaha, Nebr., July 2, 1928.

Mr. Gabriel L. Hess, General Attorney, Film Boards of Trade, 469 Fifth Ave., New York City.

DEAR MR. HESS: I just received word from my sister in San Francisco that Mr. W. Tamblyn of Nevada City, Cal. has agreeed to settle the claim on account of his bicycling pictures to Downieville, Cal.

I do not have the correspondence here and do not recall my last report to you on this case. However, it was discussed with Mr. Levin at convention. At that time the

members of the San Francisco Board did not wish the case prosecuted in view of the fact that the exhibitor claimed that all members of our Board except Metro-Goldwyn knew that he was using the pictures in both towns. Most of the members of our Board agreed that was true. However, I advised Mr. Levin that I believed Mr. Tamblyn was anxious to have the matter cleared up without any publicity and asked him to instruct me to collect a minimum of $250.00 which he did.

I then called Mr. Tamblyn to my office before I left San Francisco and he agreed to let me know within a week whether or not he would accept the offer of settlement. He now advises he will pay $250.00. I told him that amount would be considered as settlement of any and all claims arising from his unauthorized exhibition of pictures belonging to members of this Board in Downieville, Cal. up to this date. I trust this is satisfactory.

Mr. Tamblyn, however, claims to be very hard pinched for money and asks that we accept a note, adding "if not, will get the money and send it."

Will you kindly advise me at San Francisco if you will accept his note for $250.00 and if so on what terms, or if he should be required to pay $250.00 in cash.

Sincerely yours, —— ——, Executive Secretary.

CF.

[fol. 2742] Ex. 12

July 13, 1928.

Mr. W. V. Tamblyn, Broadway Theatre, Nevada City, Calif.

DEAR MR. TAMBLYN: I just returned to the city today and found your letter of June 19th with reference to the offer of settlement.

My assistant took this matter up with the Copyright Protection Bureau in my absence, and I also found a letter from them upon my return, saying that they would accept payment of $250.00 as follows: $100.00 as of this date, a post dated check for $50.00 dated August 1, 1928, a post-dated check for $50.00 dated September 1, 1928 and a post-dated check for $50.00 dated September 15, 1928.

I trust this will enable you to take care of this matter more easily and we will be pleased to hear from you by return mail. Please make your checks payable to the Copyright Protection Bureau.

Very truly yours, —— ——, Executive Secretary.

CF R.

(Letter Written in Ink)

[fol. 2743] Ex. 13

July 14th, 1928, Nevada City, Cal.

Miss Clare Foley, 724 Golden Gate Bldg., San Francisco, Cal.

Dear Miss Foley: Enclosed find checks post dated as you requested. Thank you for your kindly manner and fairness in this matter. I honestly believe you looked at it from my angle and did the best you could for me. Things are going bad and I am going to close the house four or five nights a week.

I expect to be in the City this coming week and its barely possible that I will ask your assistance adjusting a difference, but I will take it up — the parties direct first.

Very truly yours, —— ——, (Sgd.) Wm. V. Tamblyn.

[fol. 2744] Ex. 14

July 17, 1928.

Mr. J. H. Levin, Copyright Protection Bureau, 159 East 48th St., New York City.

Dear Mr. Levin: With further reference to my letter of July 14th and the settlement of bicycling at Nevada City and Downieville with Mr. W. V. Tamblyn, I am attaching hereto checks to the order of the Copyright Protection Bureau dated and in amounts as listed below:

July 14	$100.00
August 1st	50.00
September 1st	50.00
September 15th	50.00

These checks total $250.00 which amount we have advised Mr. Tamblyn we are accepting in final settlement of all

claims arising out of pictures bicycled from Nevada City to Downieville to date. I trust this meets with your approval and will now consider this matter closed.

I am advising the exchanges to rewrite all contracts with these towns so that there may be no recurrence or misunderstandings about the bookings.

Very truly yours, —— ——, Executive Secretary.

C F R.

[fols. 2745 & 2746] Ex. 18

Copyright Protection Bureau, Representing National and Regional Distributors of Motion Pitcures in the United States, 469 Fifth Avenue, New York City.

April 23, 1928.

Miss Clare Foley, Secy. San Francisco Film Board of Trade, San Francisco, Cal.

Dear Miss Foley: Mr. John D. Clark, Sales Manager, of Paramount Famous Lasky Corporation, recently forwarded to us copies of correspondence between himself and Mr. Patridge, their San Francisco Branch Manager and also between yourself and Mr. Patridge, concerning the bicycling of Paramount pictures by James Lono from Lower Lake to Middletown, Cal.

Upon examination of the papers in this case, we recommend that your Bicycling Committee follow the usual Copyright Protection Bureau procedure in this case. We believe if newspaper advertising, affecting both theatres, is obtained, undoubtedly evidence of the bicycling of pictures of the other companies would be disclosed.

The investigation of this case should be completed as speedily as possible. We believe, however, that Paramount should not submit their claim to your Board of Arbitration without being supported by the claims of several of the other distributors whose pictures have doubtless been similarly exhibited without authorization. Direct investigations should be made of the Middletown Theatre and affidavits submitted to your Bicycling Committee.

After the claims have been filed with your Board of Arbitration (usual Form #10) should be used), but before the hearing, the exhibitor should be called to appear before

your Bicycling Committee with a view toward a probable settlement.

Please keep us advised as to developments in this case.

Sincere- yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

31:26.

[fol. 2747] Ex. 19

May 15, 1928.

Gabriel L. Hess, General Attorney, Film Boards of Trade, New York City.

Dear Mr. Hess: With reference to your letter of April 23rd on the matter of bicycling of Paramount pictures by the exhibitors at Lower Lake to Middletown, we wrote you on March 13th in accordance with copy of letter attached hereto, giving a synopsis of this case and asking your opinion as to what should be done.

We did not receive an answer to that letter but we proceeded according to the regular instruction and set up a reconstruction of this exhibitors bookings, which showed that no other pictures besides Paramount could have been sent into Middletown since Mr. James Lono, the present owner, has had the theatre. He started operating in Middletown in September 1927.

This exhibitor was called before the Bicycling Committee and at that time claimed that he has contracts and receipts for all pictures played in Middletown. This the Paramount exchange denies. Therefore, we have had Paramount prepare a claim on the pictures which we know were exhibited in Middletown without license, and at the same time we instructed this exhibitor to send in the invoices and contracts referred to. He has up to the present time failed to do this so the case will be presented to the Arbitration Board for hearing if he does not produce such evidence in the meantime.

You will be notified later of the outcome of this case.

Very truly yours, —— ——, Executive Secretary.

CF R.

17 b.

[fol. 2748] Ex. 20

Board of Arbitration Copy

Claim Statement

Date: June 12, 1928.

Complainant: Paramount Famous Lasky Corporation.

Defendant: James Lono, Lower Lake Theatre, Lower Lake, Calif.

Reason for Claim: Mr. James Lono, by reason of the unauthorized exhibition of our copyrighted pictures at the Middletown Theatre, Middletown, Calif., infringed the copyright and we thereby demand that the Board of Arbitration, in lieu of our actual damages and profits, fix such damages as to the Board of Arbitration, shall appear to be just; and in assessing such damages that the Board of Arbitration, in its discretion, allow an amount provided for by the Copyright Law of the United States, which law provides that in such case damages shall not exceed the sum of $5000 nor be less than the sum of $250.00.

Contracts attached	Date of contract	Signed by	Number features	Number comedies	Number short subj.	Misc.
....	....	....	....	....	....	....

Subjects Played (Give number and titles):——.

Subjects Unplayed (Give number and titles): ——.

Amount of Claim: $—. How Determined: ——.

Correspondence Attached: ——.

Signature of Complainant: Paramount Famous Lasky Corporation, by (Illegible), Manager.

From claim file.

[fols. 2749 & 2750] Ex. 21

Copyright Protection Bureau, Representing National and Regional Distributors of Motion Pictures in the United States, 469 Fifth Avenue, New York City

July 17, 1928.

Miss Clare Foley, Secretary San Francisco Film Board of Trade, San Francisco, Calif.

Dear Miss Foley: This is in reply to your letter of July 13, 1928 concerning the bicycling claim against the ex-

hibitor operating theatres at Lower Lake and Middletown.

Upon reviewing the file in this case it is my opinion that the unauthorized exhibition of the subjects specified in your letter of July 13, 1928 was deliberate and with a clear intention to defraud the Paramount Famous Lasky Corporation.

It is also evident from the file that the product of other) companies has also been exhibited without right to do)no so although there appears to be no concrete evidence of) such fact.

I recommend that Paramount immediately file two claims, one covering the five features and the other in respect to the five news reels, using Form #10 of the Copyright Protection Bureau Procedure.

I suggest that you notify the exhibitor to call upon you to discuss a settlement of these claims based upon $250.00 for each unauthorized exhibition of the feature pictures and $100.00 for each unauthorized exhibition of the news reels, a total of $1750.00. In your negotiations with the exhibitor after stating the amount of the claim you might indicate that you would be willing to accept $1000.00 in complete settlement. If necessary this sum may be reduced, but not to less than $500.00. The latter amount in my opinion would be $500.00 less than the actual film rental were an investigation to be made of the accounts of the exhibitor over a period of a year. These figures are based upon the maximum days of exhibition, that is, one day a week in one theatre.

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

14 b.
19:18.

[fol. 2751] Ex. 22

July 13, 1928.

Gabriel L. Hess, General Attorney, Film Boards of Trade, New York City.

Dear Mr. Hess: With further reference to my letter of June 8th regarding bicycling of Paramount pictures between Lower Lake and Middletown, please be advised that we had Paramount file a claim against this exhibitor because he was unable to produce invoices.

In answer to the claim the exhibitor has written advising that he was unable to find the receipts he wanted and he has decided it is best to make settlement, and has asked for a statement of what he should pay.

For your information, this exhibitor was operating in Lower Lake and Middletown. He advised Paramount that he had closed the Middletown Theatre and to discontinue shipments on and after November 10th. They had no letter from the exhibitor to that effect, he merely advised them when he was in their office. They discontinued shipments, and one of their salesmen discovered that he used the following pictures in Middletown on the dates listed after he had advised them that the Middletown Theatre was closed. He did not pay for any of these pictures.

Forlorn River and News, #22, November 17, 1927.
Arizona Bound and News, #24, November 24, 1927.
Swim Girl Swim and News, #30, December 1, 1927.
Soft Cushions and News, #26, December 8, 1927
Hula and News, #28, December 15, 1927.

When this exhibitor came into see me he claimed that he had paid for every picture used in Middletown. I therefore told him that he should produce receipts showing that he had paid for them and after he had searched his records he was unable to produce such receipts. He of course claims that he did not intend to defraud the Paramount Company and that his act in using the pictures in Middletown without paying for them was entirely inadvertent. Nevertheless, he wishes to make a settlement and he would like advice from you as to what amount of settlement we would accept in this case.

[fol. 2752] This exhibitor pays between $7.50 and $12.50 for features and about $3.00 for News Reels. Incidentally, we have newspaper clipping from the Middletown papers as proof of the fact that these pictures were advertised and played in this town.

Kindly advise me by return mail what amount of settlement we should accept, and also advise whether or not

letters of this nature should be addressed to you or to the Copyright Protection Bureau at the new address.]

Very truly yours, —— ——, Executive Secretary.

CF R.

[fols. 2753 & 2754] Ex. 23

Copyright Protection Bureau, Representing National and Regional Distributors of Motion Pictures in the United States, 159 East 48th Street, New York City

August 3, 1928.

Miss Clare Foley, Secy. San Francisco Film Exchange Board of Trade, San Francisco, Cal.

Re Middletown to Lower Lake

Dear Miss Foley: With reference to your letter of July 23rd, 1928 in reference to the above, will you please advise this office whether the exhibitor involved has visited with you relative to a probable settlement in the sum of $500.00.

To successfully determine this case, if the exhibitor has not been in to see you in answer to your request, please instruct your members to file their claims for an early hearing before the Board of Arbitration. Advise them to use the new form of #10 of the procedure.

Sincerely yours, J. H. Levin, J. H. Levin.

—:26.
13 b.

[fol. 2755] Ex. 24

August 30, 1928.

Mr. J. H. Levin, Copyright Protection Bureau, 159 East 48th St., New York City.

Re Lower Lake & Middletown, Cal.

Dear Mr. Levin: As outlined in your letter of August 21, I have advised Mr. Lono that the Bureau has authorized a settlement of $250.00 and that unless he accepts that offer, the claim will be immediately submitted to the Board of Arbitration for its decision.

Please advise me what amount I should ask the Board of Arbitration to award in this case. I am positive that Mr. Lono will not settle and that it will be necessary to have it heard. Shall I ask $250.00 for each feature and $100.00 for each News reel? Shall I ask the Board of Arbitration to make its award on the basis of the U. S. Copyright Law.

Also please advise if I am to represent Paramount in this case, or should the Paramount manager represent the claimant.

Any suggestions you may have in regard to presenting the case to the Board of Arbitration will be appreciated.

Yours very truly, —— ——, Executive Secretary.

CF.
11 b.

[fol. 2756] Ex. 25

August 15, 1928.

Mr. J. H. Levin, Copyright Protection Bureau, 159 East 48th ~~St.,~~ New York City.

Dear Mr. Levin: With further reference to the case of bicycling from Lower Lake to Middletown, I have been slow in making a report on this as I have had quite a time getting in touch with the exhibitor. I wrote him several times requesting that he come in to discuss a settlement, and upon his ignoring my letters, I sent him a registered notice scheduling the case for Arbitration. He signed the registered notice but still did not communicate with me. I waited until three days before the hearing and then called him on long distance but was unable to reach him by telephone. I then sent him a wire asking him to call me collect. The next day he appeared in my office to discuss the case.

I must say that this case seems almost hopeless. Mr. Lono is a jap who speaks only fairly good English, so it is pretty hard to get anywhere with him. As you know this case of bicycling arose on account of his notifying Paramount to discontinue shipments to Middletown because he was closing that Theatre. He continued operating in Lower

Lake for two weeks without showing in Middletown. After two weeks he resumed showing in both theatres and Paramount claims he did not notify them to resume service to Middletown. He claims he wrote them a letter saying he was going to reopen the Middletown Theatre. However, the fact remains that he used pictures in both Lower Lake and Middletown, paying only the film rental for Lower Lake, which came to him C. O. D. as all of his pictures do. A Paramount salesman in the town discovered that he was operating in both towns and Paramount then turned the information over to this office.

Recalling my previous conversation with this exhibitor, he claimed from the first that he had paid for all pictures he used, and could show receipted invoices for same. This probably was a ruse, but anyway I gave him an opportunity to present the invoices, which he did not do.

I then requested your opinion as to the amount of settlement which we could accept, and called the exhibitor in to discuss the settlement. When I mentioned to him the figure of $1750.00, he threw up his hands and said, "Put me in jail". He claims he is flat broke and heavily in debt and that he owes back salary several months to an orchestra which he has playing in his theatre and a dance-hall in both towns, and that he is trying his best to get their salary [fol. 2757] paid up, but does not know when he will be able to accomplish that. He refuses to discuss settlement, because he says it does not make any difference to him whether the judgment is $1750.00 or $2.00, he can't pay it anyway, so advises us to proceed.

I tried in every way possible to get him to commit himself to some kind of a settlement advising him that if the case went to the Board of Arbitration they would probably make an award against him in excess of $1,750.00, but he advised he did not care and he was agreeable to having the case heard anyway. He said he is willing to close the Lower Lake Theatre any day as he is not making any money. In fact, during the last year he lost all the money he has saved during his life. The Middletown Theatre is closed at the present time.

The only thing he would agree to do was to pay the film rental on those pictures, which amounts to $57.50, and this he advises he cannot do until after September 1st.

I tried my best to get him to commit himself to some kind of a settlement, and explained to him that it would be better to settle for several hundred dollars than to have a judgment made against him which would be collectable in court, in excess of $1,000. However, it does not seem to phase him a bit whether or not a judgment is made against him, and he is unconcerned as to whether or not he keeps the theatre open. He insists he will pay the $57.50 after September 1st, as soon as he can, but that he will not bind himself to making any specific settlement which he knows he will not be able to pay.

As advised in your letter of July 17th, I indicated to this exhibitor that the Bureau would probably be willing to accept a settlement of $500.00, but he said that was out of the question. Finally before he left the office I advised him that I would take the matter up with the Copyright Bureau in view of his embarrassed circumstances, and I would not have the case heard before the Board of Arbitration on August 15th, the date scheduled. I did this because I wanted to submit to you a complete resume of the facts before bringing them before the Board of Arbitration. I would like your advice and instructions how to proceed with this case if you believe it should be brought before the Board of Arbitration.

Of course we have positive proof of pictures bicycled, in the form of newspaper clippings, and we also have his admission that he played the pictures. We also have his contention that he did not know he was paying for the pictures. The fact that he is a foreigner and gives the impression of being quite dumb might cause the Arbitration Board to be inclined to be lenient with him. Therefore, I would like any suggestions you may have to offer as to how to proceed when presenting this case to the Board of Arbitration.

I also would like to know if you would not consider any figure less than $500.00 in settlement of this case. I note [fol. 2758] in your letter of July 17th you state the figure $500 would be $500 less than the actual film rental on pictures bicycled where an investigation is made over an actual period of a year. I reiterate as I advised you several times before, the pictures mentioned were absolutely the only ones bicycled by this exhibitor, as he only operated the theatre since September 1927, and has run no

other pictures besides Paramount, and has paid for all other Paramount pictures used with the exception of those listed. Therefore the film rental on the pictures actually bicycled amounts to $57.50, and could not be any more.

I will await your advice before taking any further steps in this case.

Very truly yours, —— ——, Executive Secretary.

CF R.

[fols. 2759 & 2760] Ex. 26

Copyright Protection Bureau, Representing National and Regional Distributors of Motion Pictures in the United States, 469 Fifth Avenue, New York City

September 6, 1928.

Miss Clare Foley, Secretary San Francisco Film Board of Trade, San Francisco, Calif.

Re J. Lono, Middletown and Lower Lake, Calif.

Dear Miss Foley: This is in reply to your letter of August 30, 1928 to Mr. J. H. Levin.

Enclosed is a form of complaint to be used in this matter alleging damages of not less than $1750.

In my opinion you should call on Mr. Nathan to represent Paramount in this case, you, of course, assisting him in presenting the evidence of the acts of the exhibitor.

Sincerely yours, Gabriel L. Hess, Gabriel L. Hess, General Attorney.

19:31.
Encl.

10 b.

[fol. 2761] Ex. 33

November 12, 1928.

Miss Clare Foley, San Francisco Film Bd. of Tr., 724 Golden State Bldg., 25 Taylor Street, San Francisco, Calif.

Re Middletown, Calif., Bicycling to Lower Lake, Calif.

My Dear Miss Foley: This is to thank you for your letter dated Nov. 8th to which was attached a copy of an

award rendered by the Board of Arbitration against the above mentioned account in the sum of $1750.00.

With reference to the collection of this amount, we have taken into consideration your recommendation concerning the financial condition of this exhibitor.

So that this matter may be definitely settled communicate with the exhibitor and request that he call to see you. If necessary communicate with him by telephone and explain that you have interceded for him and will recommend a settlement of this Arbitration award in the sum of $750.00.

I will recommend for the approval of this settlement that such payment extend over a period of six months with a substantial down payment.

I would appreciate your keeping us advised as to the status of the case.

As this matter comes up for a final review December 2nd, I would appreciate a detailed report on or about Nov. 30th.

With kindest personal regards,

Sincerely yours, J. H. Levin, J. H. Levin.

26:W

3 b.

[fol. 2762] Ex. 34

November 16, 1928.

Mr. J. H. Levin, Copyright Protection Bureau, 159 East 48th Street, New York City.

In re Middletown, Cal., Bicycling to Lower Lake, Calif.

Dear Mr. Levin: In response to your letter of November 12th, I am unable to understand your request that I communicate with this Exhibitor with the idea of settling the award in the amount of $750.00.

As I have explained to you in previous correspondence, this Exhibitor is absolutely penniless and continually advises us to put him in jail when we mention the subject of collecting any damages in this award or making any settlement. He has not even enough money to pay the $57.50 which he admitted he owes for film rental, but did say that he would make future arrangements to pay that money. However, it will be absolutely useless to attempt to collect any more from him by making offer of settlement. Besides,

at the meeting of the Board of Arbitration, the Board was very reluctant to make this award on account of the Exhibitor's known condition, and as I explained to Mr. Nathan, Mr. Hess advised me it was not the intention of the Copyright Bureau to attempt to collect the award. Mr. Nathan in turn advised the Arbitration Board of this fact and some of the members were influenced by that in allowing the award to be made.

Therefore I hesitate now to attempt to make a settlement with this Exhibitor, however, if you still feel that should be done in view of the above information, I will most assuredly follow your instructions.

With kindest personal regards,

Sincerely yours, —— ——,

CF:JS.

[fols. 2763 & 2764] Ex. 35

Copyright Protection Bureau, Representing National and Regional Distributors of Motion Pictures in the United States, 159 East 48th Street, New York City

November 21, 1928.

Miss Clare Foley, San Francisco Film Bd. of Tr., 724 Golden Gate Bldg., San Francisco, Calif.

Re Middletown, Calif., Bicycling to Lower Lake, Calif. Bicycling Award

DEAR MISS FOLEY: With further reference to your letter dated Nov. 16th in re, the above, after carefully studying our files in this case and your information as to the financial condition of the exhibitor I have decided to leave the matter to your discretion.

These discretionary powers will also permit you to negotiate in this particular case for any amount you believe should be accepted.

In view of the circumstances involved in this case service should not be interfered with because of this Award.

Please keep me advised of your final arrangements with reference to our records in this case.

Sincerely yours, J. H. Levin, J. H. Levin.

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[fols. 2765-2771] GOVERNMENT EXHIBIT 37

[fol. 2772] Mr. Hess: I know you are particularly interested in the subjects I am going to discuss, and I think I will take them up in this order: The youngest rules and regulations are the Credit Committee rules, and we will start with them and then take up the rules and regulations relating to arbitration.

When I first became associated with Film Boards of Trade and visited to several of the offices near New York, I sensed that there was some form of Credit Committee work being done by the Film Boards throughout the country, and as I came in contact with that work I realized that many of the Boards were operating in such respect in violation of the law. It gave me much concern, and I talked it over with Mr. Pettijohn and he too was very much concerned about it. I think it was first suggested by Mr. Palfreyman that a Credit Committee be organized for his territory to operate along lines that we thought were legal. Credit Committee Rules and Regulations for the Detroit territory were then put in operation and worked very successfully.

Then a case was decided that had been tried the previous year in the United States District Court in New York involving the Credit Committee rules of the Fur Dealers Association. That decision in that case is the law of the country today because the government failed to take an appeal. No other case has been decided which in anywise affects those Credit Committee rules. Upon the coming down of that decision, it occurred to me that we ought to have uniform rules throughout the country. Therefore, our rules were prepared. They were gone over with counsel for all of the companies, and they are very astute [fol. 2773] lawyers. Their practice is a very specialized one, but in nowise limited to the buying and selling of motion picture material or the preparation of contracts for the exhibition of pictures; it is the broadest specialized field that I know of. It takes in everything, as you can well imagine, in a world wide business. After counsel for the companies had agreed upon the rules I was not satisfied to go forward with them until we had the opinion of very eminent counsel in New York, Caldawalder, Wickersham and Taft. That firm is made up of Judge Taft's

brother, Henry W. Taft, one of America's leading lawyers, Ex-Attorney General George W. Wickersham and other very good lawyers. Mr. Wickersham went over these rules and we received an opinion from his firm that the rules in their opinion were well within the law.

The rules were then promulgated and they have been in operation now for about one year and six months. You know what the record for the first year has been. Even in the state of confusion when at first the rules were interpreted one way by one Board and another directly opposite way by some other Board, $2,400,000 in contract were salvaged, an amount far beyond any expectation when the rules were first presented to you.

It seems to me that there would not have been as many misinterpretations of the rules had it not been for the fact that many branch managers were so eager to secure business that they sat up nights to find ways and means to avoid the rules and regulations that had been accepted by them, no matter how beneficial such rules were to themselves, the companies they represented and to all others engaged in the [fol. 2774] business. However, I think time will eliminate that type of management. I think if the argument is made to managers both as to Credit Committee rules and the rules relating to arbitration that it is a very poor type of salesmanship that relies on getting business in violation of rules others abide by when there is a so much larger field among exhibitors who have the reputation for living up to their contracts and who are willing to comply with them that the managers will see the light. It is a very poor demonstration of sales capacity for a manager and his salesmen to seek and get that kind of business. I think you will touch the pride of a manager if you will say to him: "Why do you insist upon getting business in violation of the Credit Committee Rules or securing the business of exhibitors who have been found to breach their contracts by boards of arbitration when there is the other larger field from which you can get better returns in the way of business that will remain on your books."

As to the rules themselves: Questions have been submitted by you to me and I try to answer them as best I can, giving you my views of the rules and what I think is a fair interpretation of them.

The one thing that must be avoided under the rules so as to keep the Credit Committee operations within the legal limits fixed by statute—and when I say statute I mean the United States statutes against restraints of trade—is that there must not be collective action by members of the Film Boards of Trade which will prevent a man from operating his business and freely contracting with those with whom he wants to contract. The law permits a reasonable re-
[fol. 2775] straint which we believe is that which is provided for in the rules. The requirement that security be deposited by an exhibitor or the new owner of a theatre who either refuses to furnish Credit information or has been found in the judgment of the Credit Committee to be involved in a transfer of a theatre made for the purpose of avoiding existing contracts.

The very preamble of the rule, "To correct abuses and unfair practices which now prevail in the motion picture industry arising out of changes of ownership of theatres for the purpose of avoiding uncompleted contracts, the President with the advice and consent of the members shall appoint a Credit Committee of three members to serve for a period of three months and thereafter until their successors are appointed to investigate and report to the members the names of all persons who have acquired by purchase or transfer theatres located in the territory within which the Film Board of Trade operates," was put in as a limitation upon the activity of the Credit Committee. We did not want to go so far as to appoint or have appointed a Credit Committee that had general powers such as the credit manager of a manufacturer or a large jobber to whom every customer comes to and makes a statement of his financial condition. We wanted to limit the activities of the Credit Committee only to instances where transfers of theatres had been made so that you may take it as a general rule that where a new theatre is constructed the owner of that theatre should not be classed as a new owner of that theatre under the rules.

[fol. 2776] Some of the Boards took the position that every theatre owner when first applying for contracts should be required to furnish a financial statement and whose credit standing should be passed upon by the Credit Committee. That is wrong. We deliberately limited the class of exhibitors whose credit rating is to be passed upon by

the Credit Committee to the owners of theatres acquired by transfer or sale, excluding the owner of a theatre who erected a theatre or who acquired a newly constructed theatre. This was done deliberately. We wanted to be in a position to explain to the United States authorities, if called upon, that the activities of our Credit Committee are confined to an attempt to eliminate the risks of business brought about by abuses which we hopeto cure. We felt we would be in a much stronger position. The preamble was modeled not after any particular phraseology in the Fur Dealers Rules but upon the thought that was expressed by the Judge and as brought out by the testimony that was offered at the trial which showed the tremendous amounts of money that had been lost annually by the Fur dyers in their contacts with fur manufacturers who abused the credit that had been extended to them. So first we find that the Credit Committee rules limit the operations of the Credit Committee to determine the credit rating of new owners of theatres which have transferred or sold to them.

The next important rule is rule three which commences by providing that, "All sales or transfers of theatres of which members receive knowledge"—and I want to emphasize the word "knowledge"—"shall be promptly re- [fol. 2777] ported to the Secretary of the Credit Committee." I appreciate that knowledge of transfers of theatres comes to the Secretary—such knowledge comes to you almost as quickly as the salesmen get it—but there are many instances where for the first time a salesman of the company learns that a theatre has been sold or is about to be sold. You must impress upon your membership that it is their obligation immediately any knowledge of a sale or transfer is received that it be reported to you for the benefit of everybody; and if they fail to do it or if they delay in giving you such information to gain some advantage for themselves, it is a violation of the rules.

Now, then, information of a transfer having been received, it then becomes your duty to list the name of the theatre, new owner and the old owner on your Credit Information List without any symbol provided for in the rules for the very obvious purpose of giving the information of the transfer to your members and to give the Credit Committee an opportunity to make an investigation of the transfer.

Therefore, the names of theatres without symbols as they appear on the Credit Information List should indicate to you and to your members that those theatres are under investigation, and pending the time required for investigation the members must not enter into a contract with the new owner of the theatre.

Let us see what results from that: First, I have seen Credit Information Lists where an amount of security was specified opposite the name of the theatre with no indication by the symbol "FT" or "CIR" of the Credit Committee's [fol. 2778] report and of course that caused me to inquire how that occurred. It was the impression of some of the Secretaries that the Credit Committee had the right, if they thought the credit standing of a new owner was not satisfactory to warrant doing business with him without security, to list the name of that new owner on the Credit Information List without indicating in any way that he had refused credit information or that the transfer was made to avoid existing contracts. And when I use the word "fraud" and when you use the word "fraud" we must have in our minds that we do not mean actual "fraud." The Credit Committee may deem a transfer made to avoid existing contracts a fraud, but I think you all now realize that never in my correspondence with you have I used the phrase "fraudulent transfer." I do not object to your using it, but I never use it. I have always used, "A transfer made for the purpose of avoiding existing contracts." Possibly this is so because I think along legal lines and use language to express my thoughts which a layman would express in a much shorter and direct manner.

We now reach this conclusion: There must appear opposite the name of every theatre where an amount of security is specified, one or the other symbols. You can never have the name of a theatre with a security fixed unless you use "CIR" or "FT." I made one exception. I need not mention that because I understand there is a very, very peculiar condition in a certain territory where the members have agreed among themselves that they will extend the rules so as to take in theatres where there have been innumerable transfers one after the other, to educate the last owner to his obligations by fixing a nominal amount of se- [fol. 2779] curity for the performance of his contracts, but I do not want to make that exception in any other territory.

The conditions were explained to me very fully and carefully, and upon the facts stated and under the circumstances I believe that the members in that particular territory are warranted in making that exception, but I do not want you to take it to your Credit Committee that they have the right to do likewise.

The question when a theatre in the opinion of the Credit Committee has been transferred for the purpose of avoiding existing contracts is one that should be determined solely by the Credit Committee upon information which it has received or after investigation. I think it is a good practice to have all the members of your Film Board of Trade confer with the Credit Committee where it is practicable so that there will be no complaint that the members are not given the information the Credit Committee had, and for the further reason that the claim can not be made that the Credit Committee is seeking to take an unfair advantage over the other members. This was one of the early complaints when the Credit Committee rules were first promulgated and which I believe was not justified at all because it was so clear that if such advantage could be taken, it could only be for three months. That was the purpose of rotating the Committee so all the members would have a chance to act on it. However, the judgment of the Credit Committee is the final.

The information that is received by the Credit Committee must not necessarily be positive information. You can not detect fraud excepting by inference unless there is some- [fol. 2780] body present to witness it; often it is very difficult to detect fraud. But from the circumstances surrounding a transfer, from all the conditions within the knowledge of the Credit Committee or any of your members or that are common knowledge in the trade, the Credit Committee may fairly draw an inference, a reasonable inference that a transfer was made to avoid existing contracts and then fix an amount of security for the new owner to deposit. If the Credit Committee is of the opinion that a transfer is a bona fide one, that it was made in a legitimate, honest transaction, then the Credit Committee has no alternative but to direct that the name of the theatre be removed from the Credit Information List.

The credit standing of some exhibitors is well known. For example: If Balaban & Katz acquire a theatre I think

the Credit Committee have the right to assume or to presume that it was acquired in a bona fide transaction, but if there are some facts even in such a transfer which would warrant the Credit Committee in finding the transfer was made to avoid existing contracts, they are perfectly justified notwithstanding the fact that Balaban & Katz is rated as a ten or twenty-five or one hundred million dollar corporation in putting the name of that corporation on the Credit Information List.

Nobody can fix any set rules for the guidance of the Credit Committee. They are human. They must exercise their own judgment and form their own opinions and they must keep in mind that these reports are not made for the purpose of hindering business, but for the purpose of encouraging it.

It has often been said that the sole and single purpose [fol. 2781] for the promulgation of these rules and regulations was to compel the new owner of a theatre to take over the existing contracts. I want to emphatically deny that, and although a fair inference may be drawn from the rules that such was the purpose of adopting them, it really was not the purpose. While the Credit Committee and particularly you should use every reasonable effort tactfully, diplomatically and earnestly to induce the new owner to take over existing contracts because of your belief and my belief and the belief of everybody concerned in the business that it would help the new owner to immediately create for himself a good will with the companies with which he is going to do business, you must never go beyond the point where it can be shown that a new owner was forced or coerced into doing so. You must never take the position which will enable the new owner of a theatre to rightly claim and prove he was forced to take over contracts.

I realize and believe we all realize that often when a theatre is sold, particularly a small theatre, it is sold because the theatre owner can not survive on account of his contracts on hand. Such a condition should be recognized. And that brings up the question of the right of the new owner to assume only some of the contracts and not take over others. I know that creates jealousies among the managers, but then it is up to you to sell them the idea that their record is not dependent upon such business nor

upon the business that they get by disregarding these rules. Their record in their own office depends on the good clean business that they get in the open field of competition and [fol. 2782] not what they get by what we know are underhand methods and sneaking to the disadvantage of competitors. Getting business that brings them under a cloud of suspicion that they have secured the business in violation of the rules is bad salesmanship and undesirable business. I cannot emphasize that too much in my talk to you, and I know you can make your members feel that it cheapens them to secure that sort of business. It brings them down to the level of low class salesmen when they get business by slipping in between the lines of the rules. Such business may be to their advantage for the moment but securing that sort of business is only an incentive for retaliation on the part of the other managers when the circumstances are right to get even with a member for doing that sort of thing.

Let me emphasize the fact that the new owner of a theatre need not assume all the contracts. He may come in and select such as he wants to assume. The question is then presented must the distributors serve under the old contracts that are assumed by the new owner without security if the new owner does not assume all contracts, and the answer is yes and that brings me to a provision in the contract itself. The contract provides that neither party may assign it without the consent of the other party, but that the exhibitor may assign the contract if he sells his theatre and if the new owner agrees in writing to assume the contract without relieving the exhibitor of liability, because it is clearly provided in the contract that if the new owner fails to perform under the assignment, such assign- [fol. 2783] ment shall not relieve the exhibitor of liability. The new owner of a theatre who takes over such contracts as he wants can go to the old owner and say, "Give me an assignment of these contracts that I want to take over and I will accept them," and the distributors are forced under the provisions of their contract with the old owner to deliver pictures. So you can point out to your members that it is clear the new owner need not take over all of the old owner's existing contracts.

Between the time of the assumption of the contract by assignment and acceptance which I just outlined, that is, where the new owner accepts delivery and pays for pictures, we have what we call in law a novation and every novation brings into being a new contract developing this condition. Where the new owner of a theatre takes an assignment and accepts it, the distributors are obligated to deliver pictures without security under the same terms and conditions as to the old owner. You understand that the old owner of a theatre may assign the contracts to the new owner. When he does so, the distributors are obligated to continue serving the new owner just as if a transfer of the theatre never took place. But where a new owner assumes a contract by implication, that is, when a novation takes place, it is a new contract, and if that new owner has been required by the Credit Committee to deposit security, the distributors are then in a position to demand security for the performance of their contracts. To repeat, when the new owner of a theatre has not accepted an assignment but accepts deliveries of pictures under the old owner's contracts, pays for them and continues a business relationship [fol. 2784] that was started by the old owner under his existing contracts a novation is worked out bringing into being a contract relationship between the new owner and the distributors. In other words, courts will recognize a new contract as between the distributor and the new owner under such circumstances. And in that case the distributors, if they want to, may individually demand security for the performance of such contract or may collectively demand security if the Credit Committee has rated that new owner and fixed an amount of security that he should deposit. Let us assume that the new owner who has assumed a contract by accepting delivery and paying for pictures and also has signed the questionnaire and agreed to assume such contract by so stating in the questionnaire, then security may not be demanded.

When the Credit Committee Rules were first sent to you there was some confusion as to the sending out of notices to new owners demanding security. Some of the boards took the position when security was fixed all the members

of the board had to send out a notice to the new owner demanding security. Of course, that is wrong. Security is not demanded until the exhibitor applies for a contract or until he is solicited by a salesman and until the contract is ready to be executed, then he is informed that he must deposit security just the same as an individual exchange wants payment in advance for pictures or payment on account upon the execution of a contract. Of course, the members need not and they should not send out notices demanding security unless they have come into actual contact with the exhibitor.

[fol. 2785] If a contract is taken by a distributor without demanding security in violation of the rule, he has violated the rule and punishment should be meted out.

In connection with your Credit Information List: The suggestion I am now going to make applies to all communications with respect to the enforcement of awards or the Credit Committee operations. On all lists, bulletins and communications to your members that have anything to do with Credit information or the enforcement of awards, including letters, memorandum lists, bulletins and any other written means you have of communicating with your members, put this phrase, "For your confidential information," or "For confidential information of members only," or words to that effect. I want to get over the thought that what you communicate to your members with reference to enforcement of awards or Credit Committee work is confidential. If you make a statement, for instance, that an exhibitor issued a bad check, and in your letter you say, "For your confidential information I wish to advise that such and such an exhibitor has issued a bad check for payment of film," it would be a privileged communication. And that brings me to the point of notifying your members about bad checks. Be sure when you notify your members when an exhibitor has issued a bad check and you communicate that information to all of your members and be sure that you either see or that you know that the signature on the check is the name of the person or corporation or firm that you are communicating to the members. For instance, Jones and Smith may be known throughout the territory as operators of the X Theatre. Well, now as a [fol. 2786] matter of fact you know from your own records

that Jones and Smith are owners of stock in a corporation known as the X Y Z Corporation. Do not send out a notice that Jones and Smith issued a bad check. Send out your notice that the X Y Z Corporation operating the X Theatre have issued a bad check.

Contracts taken by managers in violation of the rules may not be cancelled. Neither the Film Boards of Trade, nor the Credit Committees, nor the members have any authority or right to cancel or direct the cancellation of a contract entered into between an exhibitor and distributor. A contract once made must stand even though the making of it was in violation of the rules. For a violation of rules you all know what the penalties are. The severity of the penalty or its leniency should be determined by the circumstances and the facts in each case, and with respect to contracts taken in violation of the rules I make this suggestion. Charges should be made that the member violated the rules. Now, if you want to be lenient the member can be suspended for a period of time. For first offenders fix a good penalty, say, suspension for three months, but suspend sentence; in other words, suspend the operation of the penalty until the next offense. Then the member will undoubtedly always have in mind the penalty in suspense and upon the next violation, without charges, without hearing, such penalty may be in force.

In addition to that I make this suggestion: Where contracts have been taken, include in the penalty a provision to the effect that the members of the Film Board of Trade may refuse to cooperate under Rule 4 for the enforcement of any award that may be obtained under that contract. [fol. 2787] Do not provide that the offending member may not have arbitration, but make a similar provision to that in the rules permitting members to refuse to cooperate for the enforcement of any award that may be obtained under contract that does not contain the provisions of the Standard Exhibition Contract and keep a case record of the contract so that if any difficulty arises and it goes to arbitration and there is an award, your members may be advised that they need not cooperate to enforce the award. I think that will have a very good effect.

Suspension is not a very severe penalty. It means that a member may not have the benefits of the Film Board of

Trade during the period of suspension, but it has a great effect in the home office. We get more communications and have more conferences with home offices about members that are suspended than any other subject with which we have to deal with the home office. The managers are always saying, "Why was our man suspended?" That is why we are so careful in wanting to have all of the facts concerning any suspension. Sometimes the alibi the branch manager makes to his home office is very plausible; often it is an almost clean bill of health for the branch manager, but when we get the facts from you and we communicate those facts to the home office—oftentimes an absolute contradiction of the statements made by the manager—it puts the manager in a very bad light with his home office. All charges of violation of rules, Credit Committee rules or Arbitration rules, give us notice of immediately a charge is made and give us an outline of the charge. Keep us informed of the disposition of the charges and of what testi- [fol. 2788] mony is given in explanation. Then before a penalty is imposed, give us the recommendation of the board as to the penalty because often we can avoid the embarrassment of a suspension or expulsion of a member by getting in touch with his home office before a penalty is enforced. But do not hesitate at any time to take a firm position that a violation of the rules justifies a charge being made, that a hearing be had and that a penalty be imposed, because the firmer you are in that respect the quicker your members will realize that they should not violate the rules.

When a member is suspended he must continue to pay his dues, must abide by all rules and regulations for arbitration and the Credit Committee and all by-laws just the same as if he were an active member excepting he is denied all the rights and privileges of membership during the period of suspension.

Let us look at the rules just for a moment. If a distributor fails to comply with an award or refuses to submit to arbitration then such member shall not be entitled to redress from the Board of Arbitration having made the award until such member or distributor has complied with the award or has submitted to arbitration. That means, I assume, that such member shall not be entitled to bring any cases before the Board of Arbitration for submission. If

the rules provide that for a failure to comply with an award the distributor shall not be entitled to redress, why would not it be fair that a penalty be imposed for a violation of the rules, which in effect is the same as not complying with an award, and that the member shall not be entitled to redress from the Board of Arbitration?

[fol. 2789] I would like to see something worked out here that would really put teeth into a penalty for a violation of the rules, as it would have a very good effect on the members. I would rather see it done by resolution in each case and leave it elastic so that the members can get the facts in each case and can reach their own conclusion.

Now, as to the Credit Committee rule, where is a violation or a suspected violation, giving the Credit Committee the right to inspect books: Rule 9 provides that "Members shall upon demand of the Credit Committee furnish any information the Credit Committee may require to carry out its objects which shall include the right of the Credit Committee to examine the books and records of members but only with respect to any exhibitor who has sold or transferred his theatre and has failed to provide for the assumption by the new owner of existing uncompleted contracts." That has to do only with transfers, and we must be very chary about extending that rule. It is strictly limited to examinations of books and records with relation to that particular exhibitor.

You will note in the Credit Committee rules there is an avoidance of any reference to rental prices. In all the letters from our office there is a caution to avoid securing information with relation to prices or rentals. Under all circumstances and under all conditions, either under the Credit Committee rules or the Arbitration rules, avoid asking for prices. I am prompted to make this statement by letter which I recently wrote to a Board which had promulgated a rule requiring the members to furnish to the Credit Committee a certified copy of each contract with the [fol. 2790] old owner of a theatre. That would mean an exact copy which would disclose the rental prices specified in the contract. Avoid that under all conditions. All you need is information as to the number of pictures contracted for and the playing arrangement and the total rental on pictures but not specific prices of any particular pictures.

I do not think it is very important, but I was asked what reply should be made to an exhibitor if he asks why he was given a certain credit rating by an individual distributor. Any reasonable answer can be made. For example, "We feel that your credit standing does not warrant us doing business with you without security." In addition to paying rental in advance there are many obligations, thirteen or fourteen of them in the contract which the exhibitor must comply with in addition to paying rental, and to insure the performance of the contract you must have security. Any reasonable explanation can be made.

Often your members will say, "We entered into a contract with this exhibitor and we did not know he was the new owner of the theatre." Well, that to me is the most absurd alibi that can be offered. A theatre with which an exchange has been doing business is known to the manager and the salesmen in the territory and they certainly know when that theatre changes hands when there has been a transfer. Do not ever accept that alibi.

Somebody said that when a new owner takes over a theatre first states, "I think the rentals ought to be less than what you have been charging." That is a sales argument that he never fails to use. In that connection you remember back last summer, I think it was, I prepared a form of letter for you to send out to all exhibitors beginning, [fol. 2791] "With the realization that contracts for pictures entered into by you are in effect an asset and a part of the good will of your theatre, provision was made in the Standard Exhibition Contract to enable you to assign your contracts to the purchaser of your theater in case you desired to make a sale," and so on. You remember that letter. It should be borne in mind. I think it is a very good idea, sometime before the beginning of the new season, before the first of September, to get out another letter—it will cost a little—to all your exhibitors. It would not do any harm to bring its contents home once more.

Now on the question of accepting applications on contracts: When the Credit Committee rules were first promulgated the question was first put up to me by some of the General Counsel and the General Sales Managers, "May we solicit contracts?" And I had to take the position under the rules that there was no provision in the rules which prohibited it, and I wrote to such effect some of the

Film Boards of Trade. It developed that most of the boards by agreement among the members agree to refrain from soliciting accounts pending credit investigation, and I think it would be a good idea if you could get all your members to agree to that. It lessens the chances of criminations and recriminations and charges of unfairness and does away with suspicion.

Pending the action of the Credit Committee the individual members of the Film Board, not collectively, but for themselves and by themselves have made it a practice not to solicit new contracts or sending their salesmen into [fol. 2792] those places where a theatre has been transferred pending the report of the Credit Committee; but if a salesman who hasn't been advised of the situation happens to drop into a town and he takes a contract, he naturally brings it into his local office. Then the Branch Manager instead of tearing it up or flirting with trouble withholds any action on it until the Credit Committee made its report. You, I think, can handle these situations according to conditions in your own territories.

With respect to overlapping territory: That is another thing for you to consider when we take up this question of working out something for the overlapping territories for the enforcement of awards include the work of the Credit Committees. I hope we can get at it this morning, or, if not, tomorrow, as we want to get straightened out and find an easy working plan so that it will not be necessary for the Secretaries to be continuously corresponding with each other about matters in overlapping territories. We want something that will be automatic so that a letter can go out, the name of the theatre listed without any confusion or misunderstanding, then members of one board will understand that they must abide by the rules with respect to exhibitors in territory affected by another board. That is something we have got to work out. The question of taking applications in overlapping territory can be worked out in the same way.

If they will adopt a rule to the effect that all applications for contracts taken by salesmen from new owners when received by the exchange office be returned to the exhibitor with the statement that applications can not be considered until the Credit Committee has determined upon a credit [fol. 2793] rating, there will be no confusion; it brings

home to the exhibitor that his credit standing is being considered.

Now, I want to emphasize as strongly as I can that the Boards of Arbitration have absolutely nothing to do with Credit Committees or the credit standing of any exhibitor. Some of the Boards of Trade are inclined to give to the members of the Board of Arbitration more authority, in fact a great deal more than that granted under the rules. We do not want to extend that authority under any condition. When these Credit Committee rules were first issued I learned much to my surprise that the Boards of Arbitration were acting as Credit Committees. I had one suggestion that the exhibitors ought to be represented on the Credit Committee. I made the reply the suggestion was in effect the same as asking for a representation of highwaymen on a Police force. Credit Committee work is essentially the work of distributors, and your Boards of Arbitration have nothing to do with it as arbitrators. Boards of Arbitration are like judges. Appointed under the rules when they perform their duties provided for in the rules their functions cease. Their authority should not be extended. Occasionally, for the good effect it may have on your exhibitor arbitrators we suggest that you consult with them on flood relief work or on other things that requires the cooperation of exhibitors.

I think it well to make the following general statement: The Credit Committee may not adopt any rule to be applied universally in all cases. The credit standing of each new owner of a theatre must be determined by the Credit Commitee upon the facts in each case. We must avoid [fol. 2794] the adoption of any universal rule. We contended with the department of justice that the Credit Committee acts in each instance upon the facts and the circumstances in each case. The Credit Committee cannot take the position that a new owner of a theatre must assume the contracts of the previous owner. The Credit Committee may draw any reasonable inference from the facts surrounding a transfer to reach a conclusion whether or not in its opinion the transfer was made for the purpose of avoiding existing contracts, and if it finds that the transfer was not so made, then the name of the exhibitor and his theatre must be taken off the list. Distributors may lose some of their contracts by reason of transfers of theatres

but we can then point to the fact that last year a total of $2,400,000 in contracted rentals was assumed by exhibitors. Probably this year the amount will be doubled and because of the work of the Credit Committees transfers have decreased.

I think it might be well to give you a little atmosphere, to read a letter I wrote to Mr. Seider who was Business Manager of the Motion Picture Theatre Owners of America, in March of 1926, That was shortly after the Credit Committees began their operations. He stated that under the terms of the new contract the seller of the theatre was released from liability on uncompleted contracts, so I wrote him as follows:

(Here quote letter referred to above.)

On the question of damages: The difference between what the exchange gets from the new owner and what the old owner agreed to pay is the measure of damages. We have two or three decisions on the question of the obligation [fol. 2795] of the exchange to accept a reduced price. There are a number of cases applicable. The general rule of damage is this: A contract for motion pictures is similar to other contracts specifying fixed prices. The failure of an exhibitor to perform causes the exchange to be damaged to the amount of the rentals specified in the contract, excepting where a contract provides for a first run which is a right in addition to the privileges granted under other contracts. Under the usual contract the exhibitor gets the privilege of exhibiting the picture in his theatre. Where in addition to that he gets a first run, a right in addition to the right of exhibition, the courts have held that the distributor is obligated to minimize the damages by making an honest effort to sell that first run right to others. If after a reasonable effort the distributor can not sell the first run, then of course the distributor is entitled to the full rental specified in the contract which was breached. If the first run is re-sold the distributor is only entitled to the difference between the amount realized and the amount contracted to be paid. That was held in that South Bend case, the case of Goldwyn against the Blackstone Theatre. I do not think that rule applies in respect to contracts for runs other than a first run and the reasoning is very simple. The sale of motion pictures, the rental of motion pictures

to second, third and subsequent runs does not carry with it any adidtional right than the right to exhibit the picture. In the case of first run a man gets an additional exclusive right while a second run may be sold to more than one exhibitor and generally when a sale of a first run is made it can not be sold to another. It is an exclusive right in [fol. 2796] addition to the exhibition right, but you may have more than one second and as many subsequent runs as you may want.

The exhibitor has the right to go to any distributor, put up the security fixed by the Credit Committee and make a contract. Members of a Board may not by agreement or understanding, express or implied, agree among themselves that they will not do business with an exhibitor until he has assumed or taken over the uncompleted existing contracts of the previous owner. That can not be done. The exhibitor must be left free to do business with any distributor so long as he puts up the security fixed by the Credit Committee and members may not collectively agree that they will refrain from doing so.

In the case of a new owner of a theatre who is an exhibitor against whom an award has been made and who has not complied with the award: He goes in and buys a theatre, he becomes a new owner of it and he accepts an assignment of contracts from the old owner. Members may then demand security for the performance of their contracts because of the failure to comply with the award.

If any exhibitor writes in to find out who the Credit Committee is that passed upon his standing, because its information is confidential you should refuse to furnish the names of the members of the committee.

This morning we will start with the Rules and Regulations Relating to Arbitration:

Before I start today I want to say that we had an informal discussion yesterday afternoon, eight or ten of us on the question of penalties for violation of these rules or the Credit Committee Rules, and we reach this conclusion: [fol. 2797] The imposition of a penalty by way of suspension depriving a member of the benefits of arbitration or withholding the cooperation of members in the enforcement of an award was felt too drastic unless the case was an unusual and the violation an extraordinary one. Therefore we thought that a method which I will outline to you

will have the effect and secure the result we desire and this is what we worked out: A form which Mr. Pettijohn has very aptly called "a red ticket" will be prepared in New York and sent you. We will probably have it printed on red paper. The form will be used by you upon which to make a report to New York for transmission to a committee of General Sales Managers. The plan will work out in practice as follows:

First, in territories which do not overlap: If a member is charged with a violation of the rules or regulations or any action which is inimical to the best interests of the Film Board of Trade, a charge to such effect should be made in writing and the offending member furnished with a copy of it. A hearing on the charge should be held either by the full membership or by the board of directors, or executive committee of you have one, or by a committee appointed by the President whichever you, in your opinion, in your several territories, think will be the best procedure. Personally, I think the most salutory results will be obtained by having the hearing heard by the full membership. The member charged with the violation will be given an opportunity to explain his actions, and if his explanation is satisfactory and acceptable to the group that hears the charge, we will hear nothing of it. If his explanation is unsatisfactory, the group will be asked to make a finding [fol. 2798] and a recommendation of the penalty proposed to be imposed.

A copy of the charge and the written reply if one is made and a summary of the evidence of the charge and the answer should be made on or attached to this form and then sent to our office. We, in turn, will organize a committee of General Sales Managers, consi-ting of the General Sales Manager of the member against whom the charge is made, and two other General Sales Managers, and we will submit your report and the findings to that committtee with a request that a recommendation be made as to what should be done. Between the recommendation that your Board makes and the recommendation that the committee of General Sales Managers makes we will find a fair middle field to impose what is thus recommended by way of penalty upon the offending member and your Board will be so advised.

In overlapping territory if a violation is charged against a manager who is not a member of the Film Board of Trade making the charge but whose exchange operates in territory which is part of the charging Board's territory, the charge will be forwarded to the Board of which the offending manager is a member with the request for a written explanation. If the written explanation is satisfactory to the Board making the charge, nothing further will be heard of it. If it is unsatisfactory the Secretary of the Board will so advise the Secretary of the Board to which the offending member belongs. That Board will then go through the same procedure as if it were hearing a charge against one of its own members. In other words, the board to which the offending member belongs will hear the charges. The recommendation then, instead of coming to New York, will be sent to the Board that makes the [fol. 2799] charge. The Board may then add to that recommendation anything by way of objection or argument that it deems fit. The evidence, the charge and the explanation, the same as in a single territory Board, will then come on to New York and the procedure which I just outlined will be gone through. Whatever recommendation is then made will be sent to the Board that heard the charges and a copy to the Board that made them. We believe that under this plan, members with the realization that they are subject to suspension or such penalty as may be deemed proper for the offense, knowing that the charges will be heard by the whole membership, knowing that their explanation will be scrutinized with care, knowing that the charges and their explanation will come to New York, to our office, and on top of that will be submitted to their own Sales Manager together with two other Sales Managers, will cease violating the rules and we think our plan will have the effect we are all desirous it shall have.

In the case of an offending member who has no home office in New York, necessarily that part of the plan to submit the charges to a committee of General Sales Managers will have to be omitted. Nevertheless the report will come to our office and we will then make such recommendation back to the Board as we think is proper in each case. I think that the independent members are largely dependent for the performance of their contracts upon the Film Boards of Trade, and from all I can gather from my talks

with all of you, they are the lesser of the number of offenders. Trivial charges, I think, should be disposed of without going through this procedure, but I do not mean to minimize our desire and your effort to see that the Boards operate properly within the rules by having you [fol. 2800] gloss over minor infractions. Maybe a reprimand—not necessarily a reprimand, but calling to the attention of the offending member a violation, if it is a minor one, by you, will bring about the desired result. If you do not thus accomplish anything and a member persists in violations of the rules, then go through the procedure. This will all be outlined in a letter from New York to you. The letter will contain a request to read it to all members; and if you think it necessary to furnish a copy to them and with a copy of the form. We will have the forms printed. It will not be an elaborate form. The color of it we think will have a good psychological effect.

Before any penalty is imposed we want this procedure followed in each case. We are not taking away from the Boards their right to impose penalties; all we will ask is that before any penalty is determined upon, this procedure be gone through so that each Board may consider our recommendations in connection with their own thoughts before reaching a final conclusion.

Under this procedure a penalty will not be imposed until after we have seen each recommendation and have had an opportunity to present the matter to a committee of General Sales Managers. It is obvious that what we are seeking is to hold over the head of the persistent violator of the rules the knowledge of the fact that his practices are called to the attention not only of his own General Sales Manager but to two other General Sales Managers to whom he may some day make an application for a position. If for instance a charge is made against a Famous Players man- [fol. 2801] ager and Mr. Sidney Kent and Jimmy Grainger and Felix Feist are on the committee and this Famous Players manager happens to be an ex-Fox man and an ex-Metro man, Jimmy Grainger, in his characteristic way, will say, "I know that bird. He never complied with any rule and he probably never will."

The first rule I want to discuss with you is that which provides for the length of service of the exhibitor and distributor representatives on the board of arbitration. You

all know that the rules provide that they shall serve for a period of three months. That period was made a short one deliberately because we felt that when men are clothed with a quasi-official authority, as they are under the rules, which elevate them to a position of dignity and trust in the industry, they get to feel like as I observed in the courts of New York, court officers. They are mild-mannered, meek little men when they walk in the court house, but when they get into their lockers, took off their ordinary clothes and put on a blue uniform with brass buttons, they then become like and assume all the dignity of the judges of the highest court, with an officiousness that is absent in the judges but made known to all the people with whom they come in contact with.

I think if men sit too long as arbitrators their views become warped. They get set ideas upon certain questions, and no amount of reasonable argument will make them change their minds. Some of them in some territories get very biased or prejudiced views in respect to certain phases of matters that come before them. They will be [fol. 2802] perfectly fair in other matters but in such of which they have a particular prejudice no amount of argument will change them. While in sime territories it will be difficult, very difficult to change your exhibitor and distributor arbitrators because of the fact that you have found six men acting harmoniously who are fair, intelligent and have a good grasp of their duties, you will hesitate to change them to try a new and inexperienced distributor arbitrators. Sometimes we must take these risks in order to educate the newer men and the men who have not shown any aptitude or capacity to act as arbitrators. I know it is difficult to secure exhibitor arbitrators because of the prohibition in the rules against representatives of theatres owned or controlled by producer-distributors. In that connection I might mention that it is hoped that at the Exhibitors' National Convention they will adopt a policy (contrary to the one they had adhered to for so many years) of inviting the managers of theatres owned or controlled by producers and distributors to become members of the Exhibitor Organizations. If they take such action we will then be in a position to reasonably request that Rule I be amended by eliminating that provision giving you a larger field from which to draw your exhibitor arbi-

trators. In Harry Meyers' territory and in Mr. Cole's territory and in some of the others where there are not many men of the caliber you want to see act as arbitrators, [fol. 2803] the difficulty of changing will always be present. However, if you only get them to remain off the Board for three months, reappointing them after that period it will keep the members of Boards rotating and they will not get set in their ideas.

Now, you have often heard Mr. Pettijohn and me say, and I have written to you quite often to the same effect that when your Board of Arbitration work is stopped and you just can't go on with your arbitrators and everything is all blocked because of some conflict you are having with your local exhibitors organization, remember we have the means and the method provided for in the rules to get other exhibitor arbitrators. Of course, you should be reluctant to exercise this right, because we want always to try to keep the representatives of the local exhibitors organization as members of the board of arbitration. But when you reach a point where it is just impossible to go forward and because of the attitude of the officers of the local exhibitors organization your arbitration machinery is absolutely at a standstill, then of course you should take action. It is not necessary for me to outline how you should proceed for the rules are clear in this regard. In order to make your record clear you should give in writing to the officers of the local exhibitors organization a formal notice, clear and concise, outlining the situation and explaining the circumstances stating that the designees of the organization are blocking arbitration and request that their appointment be withdrawn and others be appointed in their place, failing which you will have no other course than to proceed as provided in the by-laws, by applying to [fol. 2804] the President of the Chamber of Commerce for the apopintment of other exhibitor arbitrators. If you ever get to that point, you must use good judgment in getting up a list of available appointees to submit to the President of the Chamber of Commerce and to the Mayor of the town. A list sufficient in number so that it can not be charged that you made the selection. In other words, if it is possible to list twenty five exhibitors do so for the appointment of six. Make your selection from exhibitors

who you believe to be intelligent and men of standing in the communities in which they operate.

It is becoming more and more difficult particularly in view of the fact that we are so active now in trying to run down bicyclers to have distributor arbitrators who have no indirect interest in the matter that is presented to them for determination because when we find evidence of bicycling we generally find that practically every company is affected. Don Douglas knows this difficulty. Practically every company in his territory with the exception of one or two were concerned in a case of bicycling he discovered. He had to scratch to get distributor arbitrators to hear the claims who had no direct or indirect interest in them. Necessarily if I am sitting as an arbitrator upon a claim made by Famous Players for bicycling its pictures, and I too have a claim against the same exhibitor and my case has been filed, I have an indirect interest in the result of the controversy, and I am properly subject to challenge on the ground that I will be or presumed to be prejudiced. When any of you are confronted with such a situation it would be well to first advise with us before proceeding to arbitration. We then will work out a procedure to give the exhibitor a fair deal.

[fol. 2805] Now we come to the rule giving each party the right to challenge any of the arbitrators. The claimant may challenge any two of the six and the respondent may challenge any two of the six, but no more than two. The rules provide that the challenge must be filed with you at least one week in advance of the hearing. That time was fixed because we realized the difficulties in some boards of having a sufficient number of arbitrators on hand. In many boards it is difficult to get even the three exhibitor arbitrators. Therefore to forewarn the Secretary we provided for a week's notice of challenge. However, that rule may be waived and not be insisted upon when you have a sufficient number of arbitrators in attendance. Do not make a point of insisting upon a challenge being filed a week in advance, if, when a challenge is made, you have a sufficient number of arbitrators to take the place of the arbitrators who are challenged. In other words, the rule is there for the protection of the claimant so a respondent can not take an unfair advantage of a situation. In case there are an insufficient number of arbi-

trators present to hear a controversy a challenge is often resorted to as a subterfuge for an adjournment. This is often done by lawyers in court taking advantage of anything provided by law to gain time. An exhibitor may wait until the day of the hearing and seeing there are only three exhibitor arbitrators and three distributor arbitrators in attendance he will challenge either one or two distributor or exhibitor arbitrators making it necessary to adjourn the hearing until the next meeting of the board of arbitration.

The parties to a controversy may agree to arbitrate with [fol. 2806] less than six; they may agree to proceed with four, with two and even with only one. In other words, if they are willing to go forward with less than the number provided for in the rules, prepare and have signed a statement to the following effect: "We, the undersigned, agree to proceed with the hearing of our controversy with two instead of six arbitrators." Have it in writing signed by the parties and make it a part of the record. This also applies to default cases excepting the statement need only be signed by the party present.

Now, on the question of a deadlock in the Board, and I am particularly addressing one or two Secretaries who have had difficulties recently because of tie votes. This also brings up the subject of verbal agreements which has been giving you a lot of trouble.

I have observed in the last two years in cases when there were tie votes and a seventh arbitrator was appointed, that the seventh arbitrator always was a man of very high caliber, a man of standing in the community and generally a lawyer. I strongly urge that in all cases where it is necessary to go to a seventh arbitrator, use your influence to have a lawyer appointed. As good a lawyer — you can get in the community. The higher the class of lawyer the less his charge will be. Probably he will make no charge at all and his award will undoubtedly be received with respect and will dispose of a troublesome situation for you. Do not hesitate to suggest the name of the leading counsel in the town or the leading citizen in the town if you believe they are men familiar enough with the subject to handle these matters.

[fol. 2807] I believe there is being given too much time and there is too much argument among arbitrators when it is evident they can not agree. Such arguments lead to hard feelings, prejudices, criminations and recriminations. Therefore, when you realize that your Board is divided advise the recording of a tie vote and switch them from the argument of the case to a consideration of the question who the seventh arbitrator will be. If there are any particularly technical questions involved under the contract, for example, verbal agreements, make every effort to have a lawyer appointed as a seventh arbitrator. You will find that a lawyer as the seventh arbitrator will invariably sustain the terms of the contract and the provisions of the rules and regulations. Even if he is not a lawyer, his good judgment will prompt him to do so. In other words, get a person to determine the controversy without the prejudices which often are displayed by either or both the exhibitor or distributor arbitrators because of their respective positions in the industry. Do not permit your arbitrators to dwell too long and have long and acrimonious discussions of a controversy. You can easily cut it off and shorten the time consumed by suggesting—if you are permitted to take part in the deliberations, and I believe most of you are: "It seems you men can not agree on this case. Why not agree on a seventh arbitrator." Your records may not be as good as they have been in the past when only a few cases have gone to seventh arbitrators, but you will find the results will be much better and it will mean more harmony among the members. The less argument between the arbitrators, the better results there will be obtained. [fol. 2808] The rules provide that the board of arbitration shall have the power to adopt its own rules or procedure and practice, and that means exactly what it says and nothing more. Rules of procedure and practice do not include general rules to guide arbitrators in making their decisions. For example, some Boards have adopted a rule that they will not hear claims on protested checks or checks returned for not sufficient funds. In that connection I want to say if the breaches of the Uniform contract could be classified in degrees, in my judgment the highest degree of breach of the contract would be the refusal of an exhibi-

tor to pay his film rental. Now, it stands to reason that under the contract itself it is provided that payment shall be made three days in advance. That is a primary obligation of the exhibitor. If because of the request of an exhibitor in the exercise of the judgment of the distributor that provision of the contract is waived, it should not place the exhibitor in an advantageous position because of the refusal of the board of arbitration to enforce payment. The cry and bugaboo that some exhibitor arbitrators and exhibitor organizations have raised that the boards of arbitration are a collection agency is just a lot of bunk. When an exhibitor issues a check and that check comes back marked "Not sufficient funds," he is stealing that much money out of the distributors' pocket. In fact in practically every state of the union it is a crime. In some states it is a felony and in others just a misdemeanor, to receive property or get the benefits of it by the issuance of a check which is not made good at the bank. If there are any ex-[fol. 2809] hibitor members of the board of arbitration who refuse to hear claims of that kind and will not make awards thereon, those exhibitor arbitrators should be requested to withdraw from acting as arbitrators and then seek the appointment of other arbitrators who will hear such controversies. Get that very clear and make it clear to the boards of arbitration. There is no higher degree of breach of contract than the giving of a check that it not made good at the bank, and what better evidence of the debt or indebtedness from the exhibitor to the distributor is there than the signature of the exhibitor on his check. In law when given a check or a note, for example, in payment of a debt or obligation you have the choice of suing on the original debt or suing on the check or the note. Generally lawyers prefer to sue on a check or a note because all they need do to prove their case is introduce the note or check in evidence, prove the signature of the person who signed it and the fact that it was not paid.

Some of the boards of arbitration have adopted or were permitted to adopt rules as to reopening cases. Some Film Boards of Trade have by-laws in that respect, but Boards of Trade as such have no more right or authority to make a by-law that affects the operations of a board of arbitra-

tion than I have to make a rule of conduct for the guests of this hotel. The authority of the board of arbitration is absolutely limited to that given the board under these rules, and it can not be widened under any circumstances. If the arbitrators who are acting as such under appointment are unwilling to abide by the rules, they are unfaithful to the obligation they assumed when they agreed to *to* accept the [fol. 2810] appointment as arbitrators, and they may very well, and in good grace be asked to withdraw. These rules were carefully prepared, they were carefully drawn in consultation with exhibitor organizations upon the advice of excellent counsel, anticipating all that then could be possibly thought of, and we cannot permit exhibitor organizations or Film Board of Trade members to extend these rules beyond what they provide. For example, on the question of reopening a case I have written practically to all of you to the effect that once an award is made it cannot be disturbed except under certain conditions. The award made by the arbitrators once it is recorded cannot be affected by any subsequent action of the arbitrators for the reason that their functions cease immediately the award is made, just the same as a jury, once it has brought in its verdict, may not change. It would be a sorry state of affairs if under our system of laws the jury in a case could bring in a verdict and then after a short time or any length of time come into court and say, "Oh, we think we made a mistake," or "We want to change our mind and change our verdict." There would never be any finality to litigation, and God knows there is enough of it now under our present system.

An award in states where there is statutory arbitration which is the result of prejudice of the arbitrators, fraud or misbehavior of some kind, or of a misconception of the facts may be set aside upon application to the court. For that reason I suggested to and have advised the boards of arbitration in states that have no similar statutory arbitration provisions to proceed as if the board of arbitration itself were a court and that application to the board of ar- [fol. 2811] bitration as such may be made to set aside an award but only for the reasons set forth in the statutes. I have not enumerated all the reasons, they are specified in the United States Arbitration Law and in the statutes

of states that have arbitration laws, which law may be used as a guide for the arbitrators.

Now, the mere application to set aside an award for one or more of these reasons is not sufficient. There must be evidence and proof of the reasons submitted with application when made. In other words, if a dissatisfied party to a controversy against whom an award is made wants to make application to set it aside, the mere statement of that party that the award was procured by fraud is not sufficient. There must be presented sufficient proof or evidence of the fraud in the form of affidavits or correspondence or statements. There need not be a strict adherence to the technical requirements that courts insist upon to convince the arbitrators in the exercice of their discretion that enough evidence has been submitted upon which to proceed; in other words, if there is probably cause shown for setting aside an award on the grounds that are set forth in the application. When that conclusion is reached then the award may be set aside; and when it is set aside proceedings should again be taken as if no proceedings had theretofore been had. In other words, they start all over. Hear all the evidence again and then make a new determination. If any of your Boards have any rules or any Boards of Trade have any by-laws with respect to reopening of awards, they [fol. 2812] should be discussed with the members and you should tell them what I have told you this morning so that such rules may be rescinded.

Some confusion has been caused by reason of the rule which provides that the expense of the exhibitor—his railroad fare from the point where his theatre is located to the place where the controversy is heard and return plus $10.00—should be paid in case the exhibitor is successful. Bear in mind that that rule does not apply where the complaint is made by the exhibitor, it is his case and he must bear the burden of the expense, whether successful or unsuccessful. It is only where a complaint is made by the distributor and the exhibitor is successful that the board may in its discretion include in the award an allowance for railroad fare limited to the railroad fare to and from the point of location of the exhibitor's theatre plus $10.00.

I can not be too emphatic in insisting that the following paragraph be complied with by the boards of arbitration:

"The board of arbitration shall not have power or authority to adopt or apply any rule which shall be at variance with any of the provisions of the Standard Exhibition Contract or any other contract between the parties or the rights and obligations of the parties thereunder." That is very clear. It is not subject to misconstruction. There is no ambiguity in that paragraph and the boards of arbitration must be guided by it. We negotiated and we argued and we conceded and we finally agreed after a period of over one year on a standard form of exhibition contract. The concessions were made to the exhibitor representatives. Finally we reach an agreement with such [fol. 2813] representatives. Therefore it may be fairly stated that the Standard Exhibition Contract today, expressing the trade practices and the trade customs of the business and represents the thoughts of the exhibitors and the distributors of the United States. Having accomplished that, it is not for the board of arbitration to change or modify or alter any of the terms of the contract. The board of arbitration has no more right to change a play date, to change a rental price, to add to or take away from the list of pictures specified in the contract than I have at this moment to demand that you should all give me the money that you have in your pockets. The parties when they have made a contract, when they sign the contract, have expressed in words everything that has taken place during their negotiations, and the lawyers in this room will tell you that there is no rule of law that is enforced with more strictness in all courts all over the world than the hearsay rule of evidence. Parties to a written agreement, having negotiated their contract and having executed it, have expressed all that has been discussed in their negotiations. In other words, the courts say that everything that has taken place prior to the execution of a contract is merged in it; and the parties having expressed their agreement in their contract may not be permitted to contradict what they have therein set forth. It was the exhibitors who insisted that the contract when printed should have the provision, "No promises or representations have been made by either party to the other except as set forth herein" printed in italics to direct it to the attention of exhibitors. [fol. 2814] There may be collateral verbal agreements,

proof of which the courts will permit. By a collateral agreement I mean an agreement, verbally or in writing, at the same time that a written agreement is made, the terms of which do not alter or modify or contradict the written contract. The exhibitor and the distributor may make a contract for a certain number of pictures at a certain rental. At the same time they may agree in a written document or verbally that the pictures shall be played within a period of six months or that the rental provided in the contract shall be paid weekly instead of in advance, or any other agreement collateral to the main agreement which does not modify or contradict it, particularly if it is a verbal agreement.

Now, as to chairmen of the Boards of Arbitration. My own opinion is that a chairman causes trouble. You clothe one of the arbitrators with what he thinks is more authority than the others. As a matter of fact he hasn't any more authority. An arbitrator chairman has no more rights than the other arbitrators. A chairman has no more right to pass upon the admission or rejection of evidence or on any question than any other arbitrator acting alone. Such questions should be determined by the whole board or a majority of them. I admit that a chairman is conducive to keeping order and decorum. The purpose of his appointment, if you are going to have a chairman, should be absolutely limited to that. All the chairman should do is to see that the hearings are conducted in an orderly and decorous manner, he cannot take upon himself to pass upon the admission or rejection of evidence or pass upon any other [fol. 2815] question unless all or a majority of the arbitrators are in accord with him.

On the question of fixing an amount of security: When you prepare an award incorporate the amount fixed by the arbitrators as security. I want to say that it is of no particular importance whether the arbirtators do so or not. The rules provide they may. If they fail to do it, the distributors may then do it. As to the boards of arbitration that refuse. If you can, tell them that by their failure to fix the amount of security they have automatically fixed it at $500.00, giving the distributor the right to fix the security limited by the rules. If the arbitrators fail to exercise the right given them to reduce the maximum from $500 to

$250 or $300 they have simply waived the right, and then the distributor has the right to ask up to $500. While I am on that subject it is very important to impress upon your members as strongly as you can the matter of fixing the amount of security to be demanded. One of the arguments that was made by the department of justice was that the distributors acted in concert in fixing the amount of security when the rules did not provide for it. We argued that by implication the rules did not provide for fixing the amount of security. In fixing the amount of security the distributors must not have any understanding or agreement, and there must be no such thing as a gentlemen's agreement or tacit agreements and nothing that can be implied from their actions that there is an agreement to fix any definite sum. That requires a great deal of emphasis and it is of the utmost importance so far as the operations of the Boards are concerned because if we can show the [fol. 2816] department of justice in a year or two years from now that this rule has been faithfully carried out and show by our records the different amounts that have been demanded by distributors we will have accomplished much. If there are ten pictures contracted for and the rental of one of the pictures is $400 and the rental of another picture is $10 the distributors may select the $400 picture as the basis for fixing the amount of security. They must fix the security upon the basis of the cost of the print plus the rental of any picture. They may select the picture that has the highest rental. Under no circumstance may the distributor demand more than $500 security. I think all of you have that pretty clearly in mind.

On the question of adjournment: As you know, the rule is that three days prior to the date fixed for a hearing either party may ask for an adjournment, and in respect to the time fixed in the rules, use your own discretion. If you believe the request for an adjournment comes as a surprise and that the application is being used to take an unfair advantage of the other party, why, then call attention to the rule. If not, disregard the three day limitation. Use your own judgment in each case. In that connection I want to say this: Where an appearance either by letter or in person has been made by an exhibitor, advise your board in the exercise of their judgment to give the exhibitor as

many reasonable adjournments as is possible without sacrificing or prejudicing the rights of the distributor, and I make that statement for this reason: You know the old [fol. 2817] saying every dog is entitled to his day in court. We do not want to be charged by exhibitors with having forced them to proceed without giving them the opportunity to be heard. Do not permit this indulgence to be abused. I have a case in mind where an exhibitor every time his case was brought up found some sort of an excuse for another adjournment. But when an application is made and it appears to be reasonable and the excuse is a fair one, urge that it be granted, recommend that it be granted so that the exhibitor is always given an opportunity to tell his story. If necessary you can in order to stop these applications for adjournment warn the exhibitor that his case will be set down peremptorily against him and no further applications for adjournment will be heard. Always have your records clear that every reasonable request for adjournment was granted, so if the matter is ever litigated you will always be in a position to tell the court, "This man was given every chance to present his side of the case but did not take advantage of the opportunity given him." In that connection, I want to say that there has been some statements by trade papers, lawyers and some exhibitors that default awards impose a personal liability upon the arbitrators. What theory of law or idea or reason is advanced for that statement I have not been able to learn. There is no liability on the part of the arbitrators for any award they make excepting that there is a possible liability if they make an award by their fraud. The arbitrators have a perfect right to proceed to hear the testimony where one of the parties does not appear, and in that connection [fol. 2818] I want to say, be sure that the testimony is heard; in other words, that an inquest is taken. Where there has been a default in appearance by one party, by the defendant or respondent to a controversy, require the complainant to make out a prima facie case. Have him present his contract, make a statement of the facts, the breach claimed and such other details as are necessary for the board of arbitration to intelligently make an award.

Now, I come to a very important section of the rules. What I am going to say I know you will not like to hear

but I am bound to tell you because we must abide by these rules. What I am about to tell you may cause some hard feeling among your members and differences between the Secretaries in overlapping territories. There is only one time under these rules and regulations when the members of your boards can act in concert in demanding security. At no other time and under no circumstances may they so act. That one time is when an exhibitor has failed to comply with an award or has refused to arbitrate. By that I mean. It is only those members who have existing contracts with an exhibitor against whom an award is made who have a right to demand security because of the exhibitor's failure to comply therewith. If a member of your board has no contract with the exhibitor, of course, he can not demand security.

Let me repeat: At no other time may your members act in concert under these rules excepting upon the refusal of the exhibitor to comply with an award or his refusal to proceed to arbitrate. Then and only then may they demand security on each of their existing contracts, and by each [fol. 2819] contract, I mean each contract. There is only one exception that may be made with respect to each contract and that is United Artists, because of their sales policy. They take a separate contract for each picture and in such case United Artists should consider contracts taken simultaneously, that is, those taken at the same time should be considered as one contract, but if they have contracts taken at different dates, then I believe they should demand security on each of those contracts, but only when they have a group of contracts taken at the same time may they be considered as one contract. This exception applies to anyone that takes a one picture contract.

I know that practically that all the national distributors have separately and individually adopted as a policy in respect to exhibitors who fail to comply with awards against them or who refuse to arbitrate, of refusing to do business with such exhibitor because an exhibitor having been found by an unbiased tribunal of his own selection to have breached his contract with another distributor, they think it is good business judgment not to become involved in any business transactions with such exhibitor. That is practically the policy of every national distributor, and their

branch managers knowing it should act upon that policy. That policy was adopted not as a result of any agreement or any understanding among these distributors. It was simply brought about by the exercise of their separate judgment reaching the same conclusion from the same state of facts, not as a result of consulting with each other or of any contract or agreement or understanding among them. [fol. 2820] They all feel and justly so that it is bad business to accept business from a man who has been found to be a contract breaker.

That brings us to this situation: Where an award has been made against an exhibitor who fails to live up to his contract and security is demanded on the existing contract by your members. Those who have existing contracts may —and they are not violating any rule if they do so—enter into a new contract with that exhibitor with or without security. Members who have no contract may enter into a new agreement with that exhibitor with or without security.

I can see the look of doubt in your eyes and since your thought that if this is so it is going to break down arbitration and the enforcement of awards.

If one of your members is so hungry for business that he has to go after the business of an exhibitor who has breached his contracts with other members, the chances are that the contract he accepts will come before the board of arbitration. When he gets his award his fellow members may feel that they are willing to take a chance with that exhibitor just as he did. I assume you would not want to do business with anyone who had been found by a court to have defrauded his creditors or who had not conducted his business ethically and fairly unless you are fully protected by security or payment in advance.

Because of the fifth paragraph of rule four if a distributor fails to comply with an award it is part of the scheme of our arbitration system to cut off the distributor's right to have heard any claims which are then filed, but the distributor is not prevented from filing new claims. All claims must be held in suspense until the exhibitor has complied [fol. 2821] with the award. Such failure of the distributor does not affect existing awards in its favor.

While the rules do not provide specifically that awards may be made by a majority vote of the arbitrators, the arbitrators must act by the rule of the majority.

The signing of an award, so far as its enforcement is concerned is unnecessary under these rules. In states where there are arbitration statutes and a distributor seeks to enter a judgment upon an award, then all the provisions of the statute must be complied with. If the statute in your state provides that an award be signed and acknowledged, then it should be signed and acknowledged by all of the arbitrators or a majority of them.

Another thing that is very important and a change in procedure will be required in many places. Let me read you this rule, paragraph three of rule four:

"3. Subject to the provision of Rule 2, on receipt of any such notice, each member having a contract (or representing a distributor having a contract) containing the Arbitration Clause with any such exhibitor shall demand payment by such exhibitor of such sum as in the judgment of such member of distributor shall be sufficient to protect such member or distributor in the performance of each contract with such exhibitor. Said sum shall not exceed the actual value of any print thereafter to be delivered under each such contract plus the rental contracted to be paid [fol. 2822] therefor, and in no case shall exceed the maximum amount fixed by the Board of Arbitration as aforesaid. Thereafter each distributor (represented in the membership) to whom such exhibitor shall have failed within seven (7) days to pay the amount of security so demanded by such distributor shall proceed to suspend service under each such contract until such exhibitor shall have furnished such security or complied with the decision of such Arbitration Board."

I will stop there for a moment. That means when you notify your members that they should make a demand for security on a certain date, within seven days of that date without any further notification from you they must suspend service if their demands are not complied with. No second notice ought to go out to the exhibitor. No second demands are to be made by the distributor. If a distributor

wants to cancel a contract, it may be done under the following:

"If service under any such contract shall be so suspended for a period of ten days such contract, at the option of the distributor, may then be cancelled."

The demand is made for security. If the demand is not complied with within seven days the distributor by written notice suspends service. If service is suspended for a perior of ten days the distributor may exercise his right to cancel the contract, and if he exercises his right he then notifies the exhibitor to such effect. If he does not exercise that right then he gives the exhibitor no further notice.

[fol. 2823] We think that where an exhibitor has paid for his pictures in advance, as to those pictures it is the better policy of the distributors not to suspend service. So understand that where service has been paid for in advance—I do not mean by a bad check, I mean where it has been paid for and amount has been received and deposited—the distributor should continue deliveries, only however of those pictures which were paid for.

Sometimes an exhibitor will resort to a trick. A distributor make a demand upon an exhibitor for security, say of five hundred dollars. This exhibitor has contracted with that particular distributor for pictures, say, at a rental of twenty dollars a piece. The exhibitor knows that unless within seven days he puts up that five hundred dollars he is not going to get any pictures from that distributor, so before the expiration of the seven days he either comes into the exchange or sends into the exchange a check in payment for ten pictures, say, two hundred dollars, and he knows that the delivery of the ten pictures can not take place until after the date when he has to meet the demand on security. He also knows that it is the distributor's policy not to refuse service for pictures paid for in advance. So, anticipating that he is not going to put up the security he sends in his check or comes in and pays for a sufficient number of pictures to keep him going for maybe six or eight or ten weeks. Under such circumstances the distributors may say, "We have demanded

security for the performance of our contract, and until you have complied with that demand we will not accept payment in advance for pictures which are deliverable after the date when you are required to make payment of secur- [fol. 2824] ity, and I herewith return your check number so and so for such and such an amount." The trick of the exhibitor is by the payment of a lesser amount that he is required to deposit as security he figures he can get pictures.

Now, as to deposits: The distributors can take checks, but if a check comes back "N. G." or "N. S. F." service must then be suspended because the demand for security has not been complied with. When a check is given it may be assumed it will be paid, but immediately such check is returned and payment thereof refused by the bank service should be suspended. In such case distributor may write to the exhibitor to the effect that "because of your failure to give us security demanded by reason of the nonpayment of your check number blank dated blank we shall suspend service on June blank 1927."

Suspension of service of serials and newsreels must be made as well as features. A newsreel is a motion picture contracted for and distributors must suspend service on every contract.

I want to relate to you a position taken by a board of arbitration. The exhibitor members of the board resented the fact that settlements or compromises of awards were effected because they said it was an affront to them, not to consult them with regard to any compromise because they had made the award, that the distributor had no right to make any compromise or any settlement of any award unless they approved such compromise. That position is simply too absurbed to discuss, but I am telling you this because one of your arbitrators may get the same sort of idea.

[fol. 2825] Assuming that Pathe, Universal and United Artists each obtain an award against the same exhibitor effective on the same date. Demand for security for the performance of each existing contracts should be made by members having contracts. Naturally, the companies in whose favor the award is made do not make any demand for security for the performance of their contract. If the

exhibitor complies with United Artists' award, then United Artists is placed in the same position as the other distributors having contracts with the exhibitor, and in order to supply the exhibitor with service United Artists must demand security for the performance of their contract. Then if the exhibitor goes to the second distributor and complies with its award, that distributor is also placed in the same position as the other members having existing contracts, and must make demand for security until all three awards are complied with. If all the members of a Board get an award against an exhibitor none of them need demand security. When an award is made, the distributor has nothing to do; he is not obligated to do anything. He sits and waits until the award is complied with. They can not demand security upon a contract upon which an award has been made.

In the event that an award is made in favor of one distributor and demands for security are made and at a subsequent date another award is made against the same exhibitor in favor of another distributor and the exhibitor fails to comply with such other award, under such circumstance, in order to take up the difference in time required to make the demand on the second award and the time that would elapse when the exhibitor complies with the first award, my advice would be to have the distributor [fol. 2826] send out a second demand to this effect: "We are advised that another award has been made against you and because of your failure to comply with that award we herewith demand security for the performance of our existing contracts with you, etc." I think that is the procedure to follow. It is not necessary for the distributors to make a second demand if security has been once furnished in compliance with the first demand. Only the distributor to whom security has not been paid in response to their first demand should make a second demand in order to take up that interval of time. You may advise your members that under such circumstances where an award is first made in favor of one distributor, and after an interval of time an award is made in favor of a second distributor, the failure of the exhibitor to comply with the second award although he has not complied with the first one, requires the distributors to whom security has not been paid in response to their first demand, to make another

demand for security for the performance of their contracts so that if the exhibitor should comply with the first award there would no interval of time between demand for security and suspension because of the exhibitor's failure to comply with the second award. The following form of letter may be used: "Heretofore we have demanded security for the performance of your contract because of your failure to comply with an award in favor of Universal. We are now advised that you have failed to comply with an award of Famous Players, and we again demand security, etc."

[fol. 2827] In the case of a distributor in whose favor an award has been made upon one contract having other contracts with the exhibitor, the distributor in whose favor the award is made may demand security for the performance of those other contracts. So in such case you have an awarded distributor in the position of demanding security for a performance of contracts other than the one upon which the award is made.

There would be objection to the awarded distributor so demanding security. The rules do not squarely provide for it, but it seems to me it would be well for such distributor to demand security for its other contracts as a precautionary measure.

I do not want any of you to feel because we have this convention and we are having this discussion that you are under any restraint whatsoever to communicate with Mr. Pettijohn or me to ask any further questions. We in New York are there to help you and it is our job to advise you at all times. I do not want any of you at any time to feel that you are writing too many letters or that you are asking silly questions, nor that you are putting too much of a burden upon us because we have a responsibility we will never try to avoid. If it is necessary to write ten letters a day in respect to anything that concerns you or your board, do not hesitate to do so. Do not feel for a moment that because of this discussion in the last two days you know all about Film Boards. Even I feel I do not. In the nearly three years that I have been associated with this work every single day has brought forth some new angle of [fol. 2828] the work requiring thought and attention, and I am sure there will be just as many new problems and

questions in the future as *they* were in the past. Do not feel reluctant to write to the New York office at any time. We are always glad to hear from you and we are always glad to help you.

Under no circumstances employ local counsel. Mr. Pettijohn and I are confident enough of our competency to answer all questions that may be presented to you that could be answered by local attorneys. If we deem it necessary that local attorneys be employed, we will arrange to employ counsel for you, and as some of you can testify whenever we have employed counsel they have always been the best procurable in their locality. We have the means of securing knowledge of who is the most eminent counsel in any locality. We know their affiliations both professionally and politically, and we feel much more confident than your members to select counsel, so always keep this in mind. Mr. Wiggins, I want you to particularly impress upon your members that under no circumstances are they to employ counsel for anything unless we know in advance for what purpose and *and* who it is proposed to employ.

Now, just one thought before I take up the contract. Let us always understand that there is no rule or regulation or penalty that may be made or imposed which can in anywise conflict with the contracts made nor with the procedure for arbitration provided for in the contract. There is nothing that the members may do that will in anywise affect the contract or the procedure providing for arbitration, but I think we have taken care of that situation under the plan we outlined this morning.

[fol. 2829] Another thing I want to call your attention to: The question of double features and the question of minimum price of admission. Film Boards of Trade have nothing to do with double features; that is a matter of policy for the individual distributor. Your members may discuss the subject but the Film Boards as such can take no action in respect thereto.

Minimum admission price: While the Film Boards of Trade may be concerned with that subject because of the fact that the contract provides for a minimum admission price of ten cents, for the time being I prefer that all of

you will diplomatically avoid bringing up the question of enforcement of that provision of the contract for the reason that the law is not definitely settled as to the right of the distributors to enforce this provision. Furthermore, we have so many other important things under the contract to consider, that while it would be a benefit to the exhibitors to enforce that provision we do not believe we should take the burden of setting that question at this time, so let us diplomatically avoid bringing it up. If it is brought up do not hesitate to write us about it and tell us what your problems are and we will try to help you.

As to transfer of theatres under the Credit Committee Rules. I did mention that the transfer of stock in a corporation by one person to another was not a transfer contemplated by the Credit Committee Rules, so you need not consider that as a transfer. There is a tendency now to organize what they call holding corporations, that is, a corporation which does not actively engage in business but simply holds the stock of many other subsidiary corporations. If there is a circuit of theatres or any number [fol. 2820] theatres each separately owned by a corporation and a holding corporation is organized either for a public issue of stock or for any purpose the stockholders may wish to carry out, the transfer of the stock of the theatre corporations to the holding corporation is not to be considered a transfer of the theatres of the separate corporations.

There is one other thing before I conclude concerning the rules and regulations. It is very essential that all arbitration board meetings be conducted in a most decorous and dignified manner. Arbitrators, claimants, exhibitors and others who attend the meetings of the Boards of Arbitration are inclined to be facetious. A facetious remark often leads to a claim of prejudice. Somebody recently reported to me that one of the arbitrators in going into the arbitration board meeting saw an exhibitor against whom a very important claim was pending, and in a facetious way said, "Well, your goose is cooked." The result was when the award against the exhibitor was made he took the position that that arbitrator was prejudiced. Discourage wise cracks and kidding. Let all understand that

the board of arbitration meetings must be conducted in as dignified a manner as a court. In court they certainly would not conduct themselves in any manner which would require the judge to call for order. Therefore, I think you Secretaries can get over the thought that arbitration, particularly when strangers are apt to come in, I mean people who are interested in arbitration—and that interest is growing wider every day—drop in to your board or ask for an opportunity to sit in at your hearings to learn something of your procedure and your methods of arbitration, should be conducted in a dignified manner. I [fol. 2831] know the managers are inclined to kid each other. Well, discourage that as much as you can and try to have your meetings conducted quietly and in a dignified and orderly manner.

One other thing: Personally, I would prefer that all hearings be held in private, limited to the arbitrators, those connected with the board of arbitration and the persons interested in a controversy because one of the big arguments that is made by those in favor of arbitration and its adoption by all industries is that the parties get a speedy determination of their controversy without publicity. In other words, they may iron out their difficulties before arbitrators who determine and reach a conclusion without the world knowing of their differences. You will have to adapt this suggestion dependent upon conditions in each territory. If the local trade press people want to sit in, why, that is all right. However, impress upon such press representatives that the parties are not particularly concerned about having their differences aired in the public prints and for that reason arbitration was adopted in the industry, particularly discourage exhibitors who have nothing to do with arbitration proceedings or are not concerned in a controversy, especially those exhibitors who are active in exhibitor organizations unless they come in a representative capacity to represent an exhibitor having a case heard. I assume the deliberations of the arbitrators are always held in private, and I do not think I need to make any further comment on that.

The time is too short to take up the contract clause by [fol. 2832] clause, so I have selected some recent letters

written within the last two months, and I think we can save time if I read them.

Mr. Pettijohn: So many of your members have never read the contract, have them read it often, particularly to salesmen and bookers.

Mr. Hess: The question which I am going to discuss was raised by Mr. Fitzgerald in the Washington, D. C. territory. You will get the facts from the letter. (Here quote Mr. Hess' letter to Mr. James B. Fitzgerald, Secretary, Washington Film Board of Trade, Washington, D. C., dated May 16, 1927).

Now, further in that connection I wrote to Mr. Zears, Secretary, Oklahoma City Film Board of Trade. (Here quote Mr. Hess' letter to Mr. Charles R. Zears, Secretary, Oklahoma City Film Board of Trade, Oklahoma City, Okla., dated March 10, 1927-.

I want to emphasize the question of the designation of a date or dates by reading a letter I wrote to Miss Littell: (Here quote Mr. Hess' letter to Miss Audrey Littell, Secretary, Charlotte Film Board of Trade, Charlotte, N. C., dated April 18, 1927).

Now, on the question of designating play dates and on the question when is a contract "outlawed," as it is termed. As I read the contract, it provides that unless the date or dates are specified in the contract or otherwise agreed upon, the control of the play date is lodged in the distributor under Article nine subject to the right of selection given to the exhibitor under that article. The clause that you usually see in a contract, "to be played or paid for before [fol. 2833] September first" does not permit the distributor to sit back and wait until September first and then claim a breach of contract. I believe the distributor is obligated to give notice of availability within a reasonable time after a picture is available. The clause is only a limitation upon the time within which the contract must be performed by the exhibitor, that is a shortening of the one year period. The clause may also indicate the agreement of the parties as to the intervals during which the pictures should be exhibited, for example, one a week or two a month. It does not fix the play date unless the date is specifically fixed. Famous Players, realizing that, have printed a year's calendar on their new form of contract and they will insist that

the salesmen and the managers agree with exhibitor upon definite fixed dates by putting a circle around the dates and the months, indicating in that way by appropriate language the play dates for the pictures contracted for, Famous Players agreeing to give four weeks notice of the date of availability of each picture.

On the question of the so-called "outlawing" of contracts: It was at the suggestion of the exhibitors that the provision was made that claims on contracts should be presented to the board of arbitration within one year from the date of the breach of the contract or the act of omission or commission which brought about the breach. So, it should be obvious to everybody that the date of the contract does not control nor does the date of the playing of the first picture or the expiration date of the contract control. Anytime that a breach occurs, no matter when, while the contract is in force is the beginning of the period of [fol. 2834] the one year within which a claim must be filed; so that a contract, let us say, dated January 1, 1927, running through to February 1928, before it is completed. Just prior to February 1928, a breach occurs; then one year from February 1928, is the time within which the distributor may file a claim, the controlling date for the beginning of the one year period within which the contract must be presented to the board of arbitration to secure an award is the date of the breach or the act of omission or commission which caused the breach. I might add that an act of omission is something which the exhibitor omits to do which under the contract he is obligated to do. And an act of commission is something that he does which the contract provides which he should not have done. The words are self-explanatory. For instance, an exhibitor is obligated not to permit the exhibition of pictures in any theatre other than the theatre for which they are contracted for. If he permitted the exhibition of the pictures in another theatre, that would be an act of commission because it is an act which he obligated himself not to do. Now, as to acts of omission. If he fails to return a print; if he fails to pay the rental, those are acts of omission. The happening of such events brings about a breach of a contract, and from the date of their happening for instance, if he permits a picture to be shown in another theatre on a certain date, which is a

breach of the contract, a year from that date, the distributor has a year from that date to file a claim. I hope that you all are pretty well clear on that.

[fol. 2835] On the question of allocating both play dates and rentals. You all know, and I think now it is an established fact, that Film Boards of Trade are not permitted to allocate prices on contracts. When that announcement was made to you, all it included play dates, I think. You have got to maintain the principle that the allocation of play dates unless consented to by all who are concerned may not be forced upon non consenting members. I will read you a letter in that connection I wrote one of the Canadian Secretaries. (Here quote letter referred to above.)

That I think is pretty well established in all of our minds and I am emphasizing it now. I get telephone calls from some of the home offices asking, "What the hell did you let the Film Board of Trade out in 'X' territory allocate my play dates? We won't consent to it and we are never going to consent — it and you know our policy and that is all there is to it." This allocation idea creates hard feelings among the members, but you have got to convince them as I feel I have convinced you before and again today, it is nothing that the Film Board of Trade have any concern with. We are trying, Mr. Pettijohn and I, to draw in as much as possible the activities of the Film Boards of Trade so as to limit them to arbitration and the standard contract, to keep within the limits which were contemplated when the Film Boards were organized, because as Mr. Pettijohn has said if we were inclined to carry on without any additional cost the distribution of pictures the distributors would be perfect- willing to let us do it.

I recently had a complaint from one of the branch managers that a couple of distributors in his territory had [fol. 2836] accepted contracts without any playing arrangement, and when he obtained an award they rushed in and agreed upon playing time with the exhibitor substituting for his pictures their pictures on the days that the exhibitor had therefore agreed were to be his days. I wrote him as follows: (Here quote letter referred to above)

If an award is made against an exhibitor and he has — contracts with First National, Famous Players and Metro, and the contracts provide for the playing of one picture a

week, it has been their practice when the exhibitor puts up security with two of them not to favor that exhibitor by changing the contracts so as to give him two pictures a week. They will comply with their contracts strictly and will grant no favors in the way of a modification of or change in their contracts to an exhibitor who has failed to comply with the award and seeks to avoid compliance by putting up security as provided under the rules.

Recently the question was asked, does the sale of advertising matter to an exhibitor between the time of making his application and its approval work an implied acceptance of the application, and I have taken the position that it does. My reasons are very simple: An exhibitor makes an application and he buys advertising material. It is sold to him not to put on the shelf, but with the knowledge that he is going to use it in his theatre to advertise to his patrons that a picture which he has contracted for is going to be shown. I think it is analagous to a shipment of a print of a picture for which application has been made. Certainly that is unquestionably an evidence of the accept- [fol. 2837] ance of the contract by the distributor.

I have one more subject. I feel the contract has been thoroughly discussed with each of you by correspondence.

Now, on the question of the date of acceptance, there still seems to be some confusion. The law is well settled that the acceptance of an offer is brought about in this way. An offer is made. It may be accepted by mail or telegraph. Upon the deposit in the mail of the letter of acceptance within the time provided in the contract or the filing of the telegram (the time of the filing of the telegram in the telegraph office) there is an acceptance of the contract. Whether the letter or the telegram reaches the exhibitor or not does not make any difference. The law presumes that a letter mailed or a telegram filed has been received so that the withdrawal of an application is of no effect if it reaches the hands of the representatives of the distributor after the time the letter of acceptance has been mailed or the telegram filed within the time provided in the application for acceptance. If a distributor has ten days in which to accept an application and the exhibitor writes letter of withdrawal or telegraphs a withdrawal to the branch manager delivered on the sixth day, if on the fifth day New York filed a telegram or mailed a letter of

acceptance, such acceptance is valid and the notice of withdrawal is of no effect.

The contract provides it shall be accepted in a certain way and we might just read that provision of the contract:

"This instrument shall be deemed an application for a license under copyright only and shall not become binding until accepted in writing without alteration or change by an [fol. 2838] officer of or any person duly authorized by the Distributor and notice of acceptance sent to the Exhibitor as herein provided."

In that connection I would like to read you a form of award that I suggested to Mrs. Walton, Secretary, Memphis Film Board and then I am finished: (Here quote form of award referred to above in instance where theatre closed)

One more subject and I am finished: With reference to my recent letter recommending the organization of a conciliation committee. That recommendation was made to all of you, I think, some time in March; and it was an agreeable surprise to hear, when I got here from one of the Secretaries, Mrs. Moffet, that promptly upon receipt of advice from New York the Cleveland Conciliation Committee was organized. They got to work, and she was able to report to me one month's operation, during the month of April, with this result: In 1926, during the month of April she had twenty one cases that were heard and determined by the Board of Arbitration. In April of 1927, because of the action of the Conciliation Committee, because of their good work, the Board of Arbitration considered but six. That to me is the clearest demonstration of the efficacy of conciliation. Conciliation, as I expressed it to you in my letter, is simply an attempt to bring parties in a dispute together to reconcile their differences. If the Conciliation Committee do not succeed, why they can go to arbitration. I hope that when you go back you will give a lot of serious and much thought to this subject and talk it over with your members to bring about active work in such regard. Some [fol. 2839] misconstruction has been placed on the makeup of the committee. The committee should be made up of exchange men or branch managers, two of them, not more, unless a claim is filed by an exhibitor in which case you

might invite an exhibitor representative to act with your conciliation committee. Do not invite an arbitrator, and during the time that your members are acting as arbitrators, do not permit them to act as conciliators.

Now, as to the copyright protection bureau. The distributors of pictures and we as an organization in New York are firm in our determination to wipe out bicycling and the switching of pictures and other dishonest practices of exhibitors who secure pictures without paying for them. You all understand my theory of asking the Boards of Arbitration for awarding damages for bicycling. I am going to it. I think we are all in agreement that the evil of bicycling is one that affects mostly the exhibitor and to a great extent the distributor. The bicycling exhibitor who does not pay a film rental for his pictures is the unfairest kind of competition to the honest exhibitor who does pay. This is evidenced by the expression of opinion by exhibitor organizations all over the United States and of most and lesser prominent exhibitors all over the country. Exhibitors want to cooperate to the fullest extent to wipe out an evil that has been troubling the industry from its beginning to the end that no exhibitor in the United States will be able to show a picture unless he pays a fair and reasonable rental for it. I do not care what the amount is so long as he is on the same footing with the honest exhibitor and is [fol. 2840] not getting the larger part of his picture show, which is 95% of his entertainment, for nothing by stealing, and there is no other way to put it, no better way to describe his act than to call it stealing. Stealing the revenue out of the tills of the distributor. Nobody disputes that position.

Because of the fact that we have an arbitration clause in the uniform contract which provides that no dispute or controversy may be litigated until it is first submitted to arbitration, distributors are placed in the unfortunate position where they may not go in the United States Federal Courts, which have jurisdiction of violation of copyright, to seek the damages that the courts are bound under law to give on proof of infringement. There is no doubt that the unauthorized showing of a copyright motion picture is an infringement of copyright just the same as the unauthorized sale of a copyrighted book. The owner of a copyright of a motion picture is in the same class as the author of a story. He is the sole and exclusive owner of the right to

show that picture and while he may license that right just as the author licenses the privilege of publishing his book for royalty, there is nobody can claim the rights of a copyright under the copyright statutes but the copyright owner.

Now, the copyright laws provide that for "every infringement of copyright in the case of unauthorized showing of pictures, or any other copyrighted material the court must, it has no alternative, the court must fix as the minimum amount of damages the sum of two hundred and fifty dollars and may award an amount of damages not to exceed five thousand dollars. Also it is the practice of the United States Court in giving a judgment to award a [fol. 2841] counsel fee which is always a reasonably substantial sum. In addition to awarding a counsel fee the successful litigant in the United States Court is entitled to costs which amount to a considerable sum; so that if a distributor were permitted under the contract to go into the United States Court to recover damages for infringement of copyright, assuming that the infringement was proved, the minimum the distributor would recover, the minimum amount would be two hundred and fifty dollars damages; and from my own experience in the United States Court in connection with the amount of counsel fee awarded, a minimum of five hundred dollars, a total of seven hundred and fifty dollars plus one hundred and fifty dollars additional as cost. I say unfortunately, although willingly, the distributors have agreed that any dispute or controversy arising with the exhibitors, must first be submitted to arbitration. They are precluded from going into the United States Court and therefore I say it is fair and reasonable for the arbitrators, in determining the amount of damages after the proof satisfies them that an infringement of copyright or bicycling has occurred, to be guided by the provision of the copyright act, which provides for not less than two hundred and fifty and not to exceed five thousand dollars for each infringement.

I am very happy that this suggestion made to the arbitration boards throughout the country has been accepted in every instance excepting one, and I am very hopeful that the members of that board under the guidance of the officers of the organization will very shortly come to see the light as the other boards of arbitration have.

[fols. 2842-2853] Switching is the same as bicycling. They are simply trade terms and I can not emphasize too strongly the determination of the distributors and the honest exhibitors cooperating with the distributors to wipe out bicycling in this country. It means more revenue to the distributor with the consequent benefit to the exhibitor and that all exhibitors are alike in the same field of fair competition. Also bear in mind that the "holding over" of a picture beyond the rental period is also an unauthorized exhibition or infringement carrying with it the same penalty for infringement of copyright.

Mr. Price: Why is it necessary to give constant attention to safety and fire prevention? To save lives; yes! to save people from being injured. Yes! to save property from burning. Yes!

All of these are important, but there are other vital reasons. Every time a fire takes place that is due to burning film, whether it is in an exchange, studio, laboratory, industrial plant, school, church, lodge or private home, it receives prominent attention in the newspapers. The headlines usually identify it as another "Movie Fire."

It is necessary in fire prevention to constantly consider the press. Because the press is justified in agitating for the prohibition of nitrate film if it is the cause of unnecessary life loss.

Were the industry forced to substitute safety motion picture film stock for that which — is now using it would virtually put the industry out of business.

[fols. 2854 & 2855] GOVERNMENT EXHIBIT 38

Complete Minutes of Meetings of the Joint Board of Arbitration, 1928, Philadelphia, Pa.

[fol. 2856] Meeting Held Friday, January 6th, 1928, of Joint Board of Arbitration, 11:00 A. M., 1337 Vine Street, Philadelphia, Pa.

Mr. S. Wittman acted as Chairman.

Case #1, Liberty Film Corp. vs. Handle & Rovner, Lyric Theatre, Camden, N. J.

Committees: Exchanges: Landow, J. Bethel, and Goodman; Exhibitors: Messrs. Pizor, Power and Goldman.

Claim: Distributor's claim was for the destruction of the two reel comedy entitled "Winnie's Vacation," which was used by the exhibitor on July 11th, 12th, and 13th, and which was destroyed on the last day used. The contract covering this subject was signed on July 8, 1926. The amount of footage destroyed was 1980 ft., for which the distributor claimed payment of $79.20. The Distributor called attention to the inspection card which showed that the print was inspected prior to its leaving their office, and which was marked "G"—Good. The distributor also showed that there had been two three day run theatres in Frankford and Lebanon, who played this picture immediately preceeding its run at the Lyric Theatre, Camden. The distributor explained that they had sent a bill of $60.00 for the two reels, to the exhibitor, but this was done to go on record, and in view of the failure of the exhibitor to pay that amount when the bill was rendered, they now asked for payment in the full amount of $79.20.

Defense: The defendant was represented by Mr. McGill, manager of the Lyric Theatre, Camden, N. J., who advised that the film was received in bad condition, and introduced as evidence, a small sample piece of film, which sprockets were ripped and torn. The exhibitor contended that when they received the film, the operator examined same, and found that it was in very poor condition, and immediately telephoned to the exchange for another print, but was advised that there was no other print available. The operator was present, and testified to the fact that he telephoned to the exchange, and asked to talk to the booker, and assumed that he was talking to the booker at the time. The exhibitor introduced affidavits signed by Alexander Fell, the operator of the theatre, testifying to the fact that he had telephoned to the exchange to request another print of the two reel comedy "Winnie's Vacation," and that the condition of the print was the cause of the fire, which destroyed same. Another affidavit was introduced as evidence, signed by Miss Lillian Lewis, the bookkeeper for Handle & Royner, in which she testified that she heard Mr. Alexander Fell, the operator of the theatre, telephone regarding the condition of the print "Winnie's Vacation."

Decision: That the exhibitor pay to the distributor within seven days from the date thereof, the sum of $60.00 for bill rendered for the two reel comedy "Winnie's Vacation",

the print of which was destroyed by the exhibitor on July 13, 1927. Upon the failure of the exhibitor to fully comply [fol. 2857] with this award within seven days from the date thereof, the sum of five hundred dollars is hereby fixed as the maximum amount which each distributor, a member of the Film Board of Trade of Philadelphia, having contracts with the exhibitor, may demand pursuant to the provision of the arbitration clause contained therein, as security for the performance by the exhibitor, of each such contract.

Case #2, Pathe Exchange, Inc., vs. Peter Walsh, who formerly operated the Grand Theatre, Centralia, Pa.

Committees: Exhibitors: Messrs. Lessy, Power and Goldman; Exchanges: Messrs. Landow, Bethel and Goodman.

Claim: The distributor's claim was for $242.50, this being the uncompleted portion of contracts dated March 21, 1927, on which twenty-three pictures remained unplayed. Mr. Peter Walsh, who formerly operated this theatre, disposed of said theatre without making any provision for the completion of these contracts, and the distributor, therefore, asked for judgment in the full amount of their claim.

Defense: The defendant was not present.

Decision: That Mr. Walsh be required to pay to the plaintiff within seven days from the date thereof, the sum of $242.50, covering the unplayed portion of the contracts existing between these parties, dated March 21, 1927.

Case #3, F. B. O. Pictures Corp., vs. Stanley-Effinger Co., 69th Street Theatre, Philadelphia

Committees: The same as in Case #2.

Claim: The Distributor advised that under date of July 8, 1926, the exhibitor signed contract for 12 Whirlwind Comedies, of which they played 3. They then signed a subsequent contract for Standard Comedies, to replace the 9 comedies remaining unplayed on the Whirlwind contract under date of May 6, 1927. Two of the 9 comedies had been played, and 7 remained unplayed. The distributor had received dates on 4 of the pictures from the exhibitor, which were confirmed on Oct. 13, 1927. Two of the 4 pictures were played, and the other 2 refused. The pictures refused were as follows:—Nov. 7th, 8th and 9th, "Heavy-

ation", $35.00. Nov. 28th, 29th, and 30th, "Unsocial Three", $35.00. Distributor made claim for the amount of $70.00, covering the rental of the pictures refused, and asked that the contract be completed.

Defense: Defendant was not present.

Decision: That the exhibitor be required to pay to the distributor within seven days from the date thereof, the sum of $70.00, covering the rental of those pictures which were booked in accordance with the terms of the contract, and the acceptance thereof refused. It is further decided that the exhibitor shall be required to play or pay for the balance [fol. 2858] of the comedies on contract, dated May 6, 1927, at the rate of one comedy every other week, starting Feb. 1, 1928. Upon the failure of the exhibitor to fully comply with this award within 7 days from the date thereof, the sum of $500 is hereby fixed as the maximum amount which each distributor, a member of the Film Board of Trade of Philadelphia, having contracts with the exhibitor, may demand pursuant to the provision of the arbitration clause contained therein, as security for the performance by the exhibitor of each such contract.

Case #4, F. O. B. Pictures Corp., vs. Louis Griner, Grand Theatre, Cape May Court House, N. J.

Committees: Exhibitors: Messrs Lessy, Power and Axler; Exchanges: Messrs. Landow, Bethel, and Goodman.

Claim: The claim was based on a contract signed by Mr. Louis Griner on April 14, 1927, for 20 pictures, of which none had been played to date. The contract carried with it, a playing arrangement of two or three pictures per month, starting Aug. 1, 1927. Dates had been requested by the Exchange on Aug. 13th, and Sept. 15th, and failing to receive same on Oct. 11th, they notified the exhibitor by registered mail of the setting of dates at the rate of one each week, beginning Oct. 26th. Since that time, ten pictures had been refused, and the distributor, therefore, claimed payment of the amount of $100.00 covering the rental of the the ten pictures refused, and also that the contract be completed in accordance with its terms.

Defense: The defendant was not present, but had written a letter to the Board, advising that he was unable to be present, and that, due to poor business, he had been com-

pelled to close his theatre on Mondays and Tuesdays of each week, and that he had been endeavoring to apportion his dates with the different exchanges with whom he had contracts, and that he had offered to the F. B. O. Exchange one date every three weeks, which they had refused to accept, and that if this was not satisfactory, the exhibitor was willing to agree to any arrangement which might be effected by the Board of Arbitration.

Decision: That the exhibitor pay to the distributor within 7 days from the date thereof, the sum of $100.00, covering the rental of 10 pictures dated one each week, from Oct. 26th to Dec. 28th, inclusive, all of which were dated in accordance with the terms of the contract dated April 14, 1927, and acceptance thereof refused. Payment of this amount will allow the exhibitor the privilege of playing the ten pictures at any future time, without further charge. It is further decided that the exhibitor shall be required to complete the contract by playing or paying for the balance of the pictures, at the rate of one picture every three weeks, beginning Feb. 1, 1928. Upon the failure of the exhibitor to fully comply with this award within 7 days from the date thereof, the sum of $150.00 is hereby fixed as the maximum amount which each distributor, a member of the Film Board [fol. 2859] of Trade of Philadelphia, having contracts with the exhibitor, may demand pursuant to the provision of the arbitration clause contained therein as security for the performance by the exhibitor, of each such contract.

Case #5, Pathe Exchange, Inc., vs. H. Colmer, Colonial Theatre, Beach Haven, N. J.

Committees: Exhibitors: Messrs. Price, Power and Axler, Exchanges: Messrs. Landow, Bethel, and Goodman.

Claim: This claim was based on a contract signed by Harry Colmer on Oct. 11, 1927, for 26 two reel comedies, of which 13 had been played to date. The exhibitor had submitted to the exchange, play dates on three comedies, which were properly confirmed but the pictures had been refused, and the distributor, therefore, made claim for payment in the amount of $17.41, $16.00 of which was for film rental of the three comedies, and $1.41 for parcel post charges.

Defense: Exhibitor was not present.

Decision: That the exhibitor be required to pay to the distributor within 7 days from the date thereof, the sum

of $17.41, covering the distributor's claim for three comedies refused in accordance with the terms of the contract, plus $1.41 postage. Upon the failure of the exhibitor to fully comply with this award within 7 days from the date thereof, the sum of $150.00 is hereby fixed as the maximum amount which each distributor, a member of the Film Board of Trade of Philadelphia, having contracts with the exhibitor, may demand pursuant to the provision of the arbitration clause contained therein, as security for the performance by the exhibitor of each such contract.

Case #6, Masterpiece Film Attractions vs. Mr. H. Delahunty, Highland Theatre, Audubon, N. J.

Committees: Same as in Case #5

The distributor was unable to produce a contract on which this claim was based, and the Board, therefore, would not consider the claim, and dismissed same.

The following cases were reported settled:

Fox Film Corp., vs. McTague Theatre, Coaldale, Pa.
Fox Film Corp., vs. Crystal Theatre, Miners Mills, Pa.
First National vs. Diamond Theatre, Wilkes-Barre, Pa.
First National vs. Garden Theatre, Buttonwood, Pa.
First National vs. Palace Theatre, Warrior Run, Pa.
Pathe Exchange vs. Broad St. Theatre, Harrisburg, Pa.
Columbia Pictures vs. Bijou Theatre, Phila.
Liberty Film Corp. vs. Star Theatre, Camden, N. J.
W. Allegheny Theatre vs. Pathe Exchange, Inc.
Lehigh Theatre vs. Pathe Exchange, Inc.

Respectfully submitted.
JG.D.

[fol. 2860] Minutes of the Joint Board of Arbitration Meeting held Friday, January 13th, 1928, 1337 Vine Street, Philadelphia

S. Wittman acted as Chairman.

1. Fox ex. vs. L. Headley, Seaside Theatre, Somers Pt., N. J.

Committees: Exchanges: Korson, Quinleven, Neufeld; Exhibitors: Geo. Kline, Goldman, Power.

Exhibitor not present.

Claim: Contracts were dated July 21, October 30, December 23, 1926, and April 21, 1927. Contracts were assumed by J. L. Headley covering 50 features, 52 comedies, 208 News Reels. There were played at the theatre 34 features, 29 comedies and 91 News Reels. Pictures unplayed 16 features, 23 comedies, and 117 News Reels. The house was closed in December and no provisions made for the unplayed balance of the contracts amounting in value to $537.90.

Decision: That the exhibitor pay to the Exchange within seven days from date $537.90, value of unplayed portion of contracts.

2. Pathe ex. vs. S. L. Patterson, Shadowland Theatre, Landisburg

Committees: Exchanges: Korson, Blofson, Neufeld; Exhibitors: Geo. Kline, Goldman, Power.

Claim: Contract dated Oct. 13, 1926, for a standing order for Pathe News. Contract provides that unless exhibitor gives notice of 30 days' prior to expiration date of contract that contract would automatically renew itself. The exhibitor started playing December 18, 1926, failed to give notice 30 days, prior to December 18, 1927. He had failed to lift 7 on the 1926 contract, amounting to $14.00 and 5 on the new contract 1927, amounting to $10.00.

Decision: That the exhibitor pay for the News Reels which he failed to lift amounting to $24.00 and that he complete the balance of the contract in accordance with the terms of the contract, and upon the failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $50.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

3. D. E. Hickman, Royal Theatre, Nazareth, Pa., vs. Fox ex.

Committees: Same as Case #2.

Mr. Heckman present.

[fol. 2861] Claim: Exhibitor had contract with the Exchange dated 6 19 26 for a number of pictures, included among which was the production Seventh Heaven. The contract as approved by the Exchange was silent on question of protection or any run. The exhibitor produced a work sheet which showed that the pictures were being bought first run in town. It further appeared that the Exchange permitted the Broad Street Theatre, Nazareth, which also had a contract and which was silent as to run, to play Seventh Heaven ahead of Royal.

The claim of the Royal was $500.00, based on 550 seats to be played for two days at an admission charge of 25c. The exhibitor showed that when he played What Price Glory, a picture of similar box office value, he took in over $400.00. It further appeared that before a play date was given to the Broad Street Theatre, that the exhibitor was not notified to put in his play date.

Defense: That there was nothing in the office which would show the booker that the Royal was to play first-run, and further, that the Broad Street came in ahead of the Royal and gave in the date; that there was nothing complained of by the Royal until one day before the Broad Street was to show the picture. Furthermore, the Exchange rested solely upon the contract which failed to show that the exhibitor had first run.

Decision: In view of the unethical handling of the situation on Seventh Heaven by the Exchange, that this Board awards to the exhibitor $250.00 damages to be paid within seven days and that the playing of the picture be optional with the exhibitor.

4. Masterpiece ex. vs. John Marinos, Palace, Warrior Run, Pa.

Committee: Exchanges: Neufeld, Blofson; Exhibitors: Goldman, Pizor.

Exhibitor not present.

Claim: Contract signed Nov. 19, 1927, for a number of pictures. The picture Border of Vengeance was sent to the exhibitor for play date and the exhibitor refused to lift

it. The exhibitor wrote a letter in defence stating that this picture had played the theatre while the former owner was operating the theatre and that he had asked the exchange to substitute a different picture for Border of Vengeance and the Exchange neglected to do so.

Decision: That the Masterpiece substitute a picture for Border of Vengeance of the same character and rental value and that the exhibitor play and pay for the substituted picture within six weeks from the date hereof.

Case of De Luxe vs. Harner Theatre, New Holland, Pa., withdrawn.

—— ——, Secretary.

GPA:ASH.

[fol. 2862] Minutes of Meeting of the Joint Board of Arbitration Held Friday, January 20th, 1928, at 11:00 A. M., 1337 Vine St., Phila.

Mr. Oscar Neufeld acted as Chairman.

Case #1, Pathe ex. vs. A. E. Fridrich, Liberty, Camden, N. J.

Committees: Exchanges: Zagrons, Goodman, Landau; Exhibitors: Goldman, Pizor, Power.

The exhibitor was present with his counsel Mr. Smith. After presentation of the Plaintiff's case and introduction of the Defendant's defense, the Board having deliberated and having failed to reach a majority or unanimous decision, the Board then appointed Messrs. Pizor and Landau to endeavor to secure the services of Max Aron, Esquire, as a seventh arbitrator and the parties in litigation to be notified as to the time and place of the hearing. The hearing before the seventh arbitrator to be appointed, will be a hearing wherein the entire matter will be re-opened. The complaint introduced and the defense introduced.

Case #2, Fox ex. vs. S. Stiefel, Elite Theatre. Philadlphia

Mr. Landau now acting as Chairman.

Committees: Exchanges: McFadden, Humphreys, Goodman; Exhibitors: Goldman, R. Schwartz, Power.

Exhibitor was not present nor represented.

Claim: Contract dated August 6th, 1927. Contract was signed was Samuel H. Stiefel, on behalf of the Stanley-Stiefel Corp. covering five John Gilbert re-issues. Exhibitor played one and left four unplayed. The Picture in question Honor First on October 24, 1927, the exhibitor gave the date to play the picture December 5th and 6th, and the exhibitor failed to exhibit or pay for the picture, which amounted to $40.00.

Decision: The decision of the Board was that the exhibitor must pay within seven days from date to the Exchange $40.00, the value of Honor First which he failed to pick up and exhibit, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, De Luxe Ex. vs. L. Headley Seaside Theatre, Somers Pt. N. J.

Committees: The same as in Case #2.

Claim: Contract was signed February 24, 1927 for 20 pictures to start June 1, 1927, at the rate of one a week [fol. 2863] until the contract was completed. On June 13, 1927, was assumed in writing by Mr. Headley. The theatre was closed on or about December 1, 1927, leaving unplayed eight Rayart Pictures and twelve Gotham Pictures, the total rental value being $200.00.

Decision: The decision of this Board was that the Exhibitor should pay within seven days from date $200.00 to the Exchange, being the value of the contract.

Case #4, United Artists Corp. vs. D. Raybuck, O. H., Tremont, Pa.

Committees: The same as in Case #3.

Claim: Contract was signed November 22, 1927, for seven pictures, none of which were played. Contract pro-

vided to be played or paid for within ninety days from date of contract. The contract was approved November 4th. On November 7th, the theatre was closed by order of the State for failure to install emergency lighting system and through failure to abide by other regulations. The value of the pictures is $120.00. The theatre has since November 7th, 1927, remained closed.

Decision: It was the decision of this Board that the exhibitor should pay to the Exchange within seven days from date $120.00, the value of the contract.

Case #5, F. B. O. vs. C. E. Buell, Opera House, Red Lion, Pa.

Committees: Exchanges: Quinleven, Humphreys, Goodman; Exhibitors: Goldman, R. Schwartz, Power.

Exhibitor was not present.

Claim: Contract was signed by C. E. Buell, October 19, 1927, for ten pictures, five of which were played and five remained unplayed, and the second contract dated October 6, 1927, for 56 pictures, seven of which were played, leaving 49 remaining unplayed. These contracts covered both features and comedies. Contract also provided to play at the rate of one picture each week. Exhibitor failed to pick up the following subjects on the following dates:

Dec. 6 Border Whirlwind	$12.50
Dec. 8 Bill Grimms #2	5.00
Dec. 8 Moment of Temptation	12.50
Dec. 15 Bill Grimms #3	5.00
Dec. 16 Is That Nice	12.50
Dec. 22 Bill Grimms #4	5.00
Dec. 23 Cactus Trails	12.50
Jan. 12/28 Bill Grimms #5	5.00
Jan. 15 Bred in Old Kentucky	12.50
Jan. 22 Adorable Deceiver	12.50
Total	$95.00

Decision: The decision of this Board was that the exhibi- [fol. 2864] tor should pay $95.00 within seven days from date to the Exchange, representing rental of pictures refused, and also that the exhibitor complete the contract in accordance with the terms of the contract.

The following cases were marked settled or withdrawn:
F. B. O. vs. M. John Smith, Liberty Theatre, Philadelphia.
Liberty Exchange vs. D. Hirsh, Forrest Theatre, Philadelphia.
Pathe vs. Zatkin, Standard Theatre, Camden, N. J.
Masterpiece vs. Fetsko, Peerless, Allentown, Pa.
The following cases postponed to Jan. 17, 1928.
Pathe vs. I. Krohn, Roxy Theatre, Easton.
Liberty Exchange vs. S. W. Young, Elm Theatre, Camden, N. J.
Fox Ex. vs. L. Berman, Savoy Theatre, Bethlehem, postponed to Feb. 3rd, 1928.

Respectfully submitted, Geo. P. Aarons, Secretary.
Joint Board of Arbitration.

GPA:ASH

[fol. 2865] January 27, 1928.

Meeting of the Joint Board of Arbitration was held on the above date at 11.00 A. M., 1337 Vine Street, Philadelphia.

Mr. Oscar Neufeld acting as Chairman.

Case #1, Pathe Ex. vs. I. Krohn, Roxy Theatre, Easton, Pa.

Committees: Exchanges, Goodman, Blofson, Landau; Exhibitors, Perlin, Pizor, Power.

Exhibitor was present.

Claim: $49.00 on contract dated November 21, 1927, signed by Harry Smith for 168 pictures, none having been played. Playing arrangement Fables and Topics of the Day booked standing order one each week. Exhibitor refused to recognize the contract on the ground that Harry Smith did not have the authority from the Roxy Theatre Corporation to enter into said contract, unless contracts be approved by I. Krohn, President of the Corporation.

It appears that there were other contracts with Exchanges that had been signed by Harry Smith and had been approved by I. Krohn either by written or verbal notice. There were seven issues of Topics of the Day

which had been assigned and not lifted to the amount of $21.00. Six issues of Aesops Fables to the amount of $18.00 and one Our Gang Comedy, Bringing Home the Turkey, $10.00.

Decision: That the exhibitor pay to the Exchange within seven days from date $49.00 for the pictures which he did not pick up, and that he complete the balance of the contract in accordance with the terms of the contract, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Pathe Ex. vs. A. Fredrich, Liberty Theatre, Camden, N. J.

Committee: Exchanges, Zagrons, Goodman, Landau; Exhibitors, Goldman, Pizor and Power; Max Aron, Esquire, as the seventh arbitrator, to decide the issue.

This case was brought before the Board on January 20th, 1928, and as a result of a tie-vote, it was submitted to Mr. Aron.

The contract was dated March 9, 1927, approved March 21, 1927. March 29, 1927, the exhibitor sent a registered letter to the Exchange cancelling the contract on the [fol. 2866] grounds that the contract as approved was not in accordance with the application submitted by him under date of March 9th. It appears that the exhibitor had a contract for comedies in 1926 which had not expired at the time the contract on March 9, 1927, had been entered into, but from March 9, 1927 to October 26, 1927, the exhibitor had played 28 comedies covered by the contract in dispute. The last picture played on the 1926 contract was July 16, 1927, which completed the old contract. The first picture played on the new contract was May 14, 1927.

The exhibitor was present and represented by S. Smith, his Attorney, pointed out that the question on the new contract did not arise until after September, when he had received the availability notice from the Exchange of a lot of pictures, and he further stated that the comedies played by him during 1927 were comedies which he believed still to be on the 1926 contract and that he did not know that he was playing 1927 comedies, and at the most that the comedies played by him were included in the contract of March 9, 1927. There were comedies furnished by the Exchange without reference to the contract, which he alleged was not in a valid contract.

Upon conclusion of all the evidence, the Board went into a deliberation of the matter under the guidance of the seventh arbitrator, Mr. Aron, and concluded that the contract dated March 9th, 1927, which was cancelled by the exhibitor, such cancellation would be good if nothing further had been done, but it was shown that subsequently the exhibitor had ordered approximately 33⅓ of the pictures covered by the contract; had booked, played and paid for them. That the facts indicated that he knew the comedies that he so played were under the contract in question and that he played them with knowledge of the same.

The Board then made the following decision—that under all the facts of the case, that the contract is a good and valid contract; that the exhibitor must pay $22.50, representing the comedies which he did not lift and which had been dated, and that he complete the balance of the contract of March 9, 1927, as approved March 21, 1927, in accordance with the terms of the said contract, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, H. Axler, Bellevue Theatre, Phila. vs. Masterpiece Ex.

Mr. J. H. Greenberg acted as Secretary in this case.

H. Axler, Bellevue Theatre, Phila. vs. Masterpiece Film Attractions.

[fol. 2867] Committee: Exchanges Quinlivan, Zagrans & Landow; Exhibitors, Power, R. Schwartz & Forscher.

The exhibitor had three claims based on contracts signed on June 29, 1927, numbered F59, F60, and F61.

Claim #1 was for the cancellation of contract F59, which contract called for 30 pictures, for the reason that the exchange permitted the picture "Lady Bird" to play the Wishart Theatre on Dec. 28, 1927, and that the picture "Polly of the Movies," and "Return of Boston Blackie" was played at the Aurora Theatre on Jan. 4th and Jan. 7th respectively, prior to the exhibition of these pictures at the Bellevue Theatre. The contract contained a clause providing for protection against both the Eishart and the Aurora Theatres. The exhibitor contended that the contract had been breached, and asked for a cancellation thereof.

Defense on Claim #1. The distributor admitted that the picture "Lady Bird" and "Polly of the Movies" had played the Wishart and Aurora Theatres respectively, but denied that the "Return of Boston Blackie" had played the Aurora Theatre, as this picture had been withdrawn in time. The distributor claimed that the playing of these pictures at the above mentioned theatres was due to an error in the Booking Department, and they had not realized their error until it was called to their attention.

Claim #2. This contract, F60, was for one picture "Shadows," which the exhibitor claimed was sold to him by Dave Korson, and that at the time the sale was made, he was told that it had not played in the neighborhood in which the Bellevue Theatre is located, for six or seven years prior to the date of the contract. It was subsequently found that the picture "Shadows" had been played by the Majestic Theatre in February of 1927, which was about five or six months prior to the signing of this contract, and had the exhibitor then known that it had played in the

neighborhood, he would not have purchased the picture. Believing this to be first run in the neighborhood, the exhibitor had advertised the picture very extensively, and had played same on Friday and Saturday, Dec. 30th and 31st. Exhibitor produced box office statement to show that he had taken in on Friday, Dec. 30th, $125.00, and Saturday, Dec. 31st, $182.00. Exhibitor also produced box office statements on other Lon Chaney pictures, which he had played on Friday and Saturday, from which it was noted that there was quite a difference in the receipts, and the exhibitor, therefore, made claim for $300.00 as damages for misrepresentation in this product.

Defense on Claim #2. The distributor advised that to his knowledge, there had been no understanding between the salesman *th*d the exhibitor, that the picture had not [fol. 2868] played in the neighborhood for six or seven years. They contended that while the print was in their exchange, it was in unfit running condition, and they had no record of having booked same to any exhibitor for the past two years, but it was possible that the Majestic Theatre might have played the picture in February, as contended, when he may have received same on a gratis basis, as an adjustment. However, the picture was not released by them as a reissue until July 1927, and it was sold to the exhibitor with the express understanding that it was a reissue, and the contract was marked that way.

Claim #3. This was on a contract calling for three Clara Bow pictures, contract F61. The exhibitor claimed $300.00 as damages for misrepresentation that the pictures were sold to him, and represented as having Clara Bow appear in said pictures as the star. On Jan. 6, 1928, the exhibitor played the picture "My Lady's Lips," and it was found that Alyce Mills was starred in the picture, and that Clara Bow appeared as a very unimportant character, and only appeared in the first and last reels. The exhibitor had advertised this picture very extensively, putting out 6000 programs, extra supply of one sheets, circulars, &c. That when the picture was exhibited, the patrons of the theatre criticized the exhibitor for misrepresenting the picture as having Clara Bow appear as a star, when she did not appear as such star, and that the exhibitor, therefore, suf-

fered damages by the business falling off materially thereafter.

Defense on Claim #3. The distributor denied that the pictures had been represented as having Clara Bow featured as a star therein, but that she was merely featured as one of the cast. The distributor advised that this was the way the pictures were sold to them by the producer, and they were not responsible for the failure of the picture to live up to expectations.

Decision:

Claim #1. That the Distributor pay to the exhibitor within seven days from the date hereof, the sum of one hundred dollars, as damages for breach of contract in permitting the picture "Lady Bird" to play the Wishart Theatre prior to the exhibitor's theatre, and in permitting the picture "Polly of the Movies," to play the Aurora Theatre prior to the exhibitor's theatre, both of these exhibitions being contrary to the terms of the contract in question. It is further decided that the exhibitor shall receive the two pictures above mentioned, gratis, if he desires to play same, and if it can be proven that the picture, "The Return of Boston Blackie", was played by the Aurora Theatre on Jan. 7th, then the exhibitor shall receive this picture gratis, if he desires to play same.

Claim #2. That the claim for damages on the picture "Shadows" is disallowed.

[fol. 2869] Claim #3. That the distributor shall refund to the exhibitor within seven days from the date hereof, the sum of sixty dollars, covering the rental paid for the picture "My Lady's Lips."

[fol. 2870] The following cases were continued until Friday, February 3rd.

Universal Ex. vs. Bijou Theatre, Milton, Pa.

Universal Ex. vs. Colonial Theatre, Haddonfield, N. J.

B. H. Harrison formerly of Victoria, Westville, N. J., vs. United Artists.

Fox Ex. vs. Savoy, Bethlehem, Pa.

F. B. O. vs. Crescent, 84th and Eastwick Ave., Phila. Masterpiece.

The following cases were reported settled:

Masterpiece Ex. vs. Broadway, Wilmington, Del.
Universal Ex. vs. Riverside Theatre, Bristol, Pa.
Two cases of F. B. O. vs. Elite Theatre, 27th & Girard Ave., Phila.
De Luxe Ex. vs. Segall's Castle Theatre.
Pathe Ex. vs. Orpheum, East Mauch Chunk, Pa.
Liberty Ex. vs. Elm Theatre, Camden, N. J.

Case #4, Fox Ex. vs. J. Marinos, Palace Theatre, Warrior Run, Pa.

Committees: Exchanges, McFadden, Goodman, Landau; Exhibitors, R. Schwartz, Perlin, Power.

Mr. Pizor acted as Chairman.

Claim: Contracts dated 9 25 26 and March 3, 1927, signed by the former owner and assumed by assignment on July 7, 1927, by John Marinos, covering 50 features and 52 comedies. 45 features and 46 comedies played; five features remaining and six comedies. Playing arrangement one per week on features and comedies. Exhibitor refused to lift comedies on December 24th, in amount of $6.45, December 31st, $6.45, advertising costs $1.15, January 7th, 1928, $6.45, January 14th, feature $15.72 and a comedy $6.45, and telegram cost of 30c, making a total of $60.14, which included a feature on January 21st, in amount of $10.72. It further appeared that the exhibitor had booked Ankles Preferred for December 31st and January 2d, picture should have been returned to the Exchange not later than January 4th, and was not returned until January 7th.

Claim of $200.00 is made for the three days unauthorized use or holding out of the picture.

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days $60.14, for the pictures in question which he left lay, and damages of $200.00 covering feature which he returned three days later, and that he complete the balance of the contract in accordance with the terms of the contract, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the

exhibitor has any contract, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in purcuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 2871] Listed Minutes of the Joint Board of Arbitration Meeting Held Friday, February 3rd, 1928, at 1337 Vine Street, Philadelphia, Pa., at 11:00 A. M.

Mr. S. Wittman acted as Chairman.

Case #1, F. B. O. vs. Elite Theatre, 27th and Girard Ave., Phila., Pa.

Committees: Exchanges, Heenon, Neufeld, Quinleven; Exhibitors, Power, Goldman, Schwartz.

Claim: Contracts dated August 3, 1927 and August 24, 1927, signed by Stanley-Stiefel Company per Samuel Stiefel, covering 30 features, 24 two reelers, and 52 cartoons, upon which had been played three features, 15 two reelers and four cartoons, leaving unplayed 27 features, 9 two reelers and 48 cartoons. Last pictures played December 26-27 for features, October 19-20 for two reelers and December 9-10 for cartoons. Playing arrangement: To be played one or more per week as soon as available. Exchange requested numerous dates and dates were set by the Exchange October 1st and December 9th, 1927 for the following pictures:

Great Mail Robbery, December 26-27, 1927	$100.00
Old Tin Sides, December 26-27, 1927	7.50
Chicken Chaser, December 26-27, 1927	3.00
Gingham Girl, January 2-3, 1928	90.00
You're Next, January 2-3, 1928	7.50
Alice's Monkey Business, January 2-3, 1928	3.00
Not For Publication, January 9-10, 1928	50.00
Heavy Hikers, January 9-10, 1928	7.50
Cheese It, January 9-10, 1928	3.00
Total	$271.50

These pictures were not lifted by the exhibitor.

Exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date of meeting $271.50, the amount of the pictures refused by the exhibitor and that the exhibitor go through with the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the sum of not more than $250.00 has been fixed as the maximum amount to be placed with each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade as security for the faithful performance by the exhibitor of such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Universal Exchange vs. Bijou Theatre, Milton, Penna.

Mr. Pizor acted as Chairman in this case.

Committees: Same as in Case #1.

Claim: Contract was signed April 30, 1926, by Pete Pappas for 52 pictures, 46 of which were played, leaving six unplayed. The date of the last picture was Jan. 11, 1926. Playing arrangement was one picture per week. Exchange [fol. 2872] requested numerous dates. Exhibitor failed to date or pick up the following pictures which were set by the Exchange:

Jan. 2, 1928.	Fighting Three	$25.00
	Parcel Post Charge	.65
	C. O. D. Charge	.15
Jan. 4, 1928.	P. P. on refusal	.50
Jan. 8, 1928.	Hero on Horseback	30.00
" 16, 1928.	Beware of Widows	25.00
" 23, 1928.	Bridge of the Devil	25.00
" 30, 1928.	Range, etc.	15.00
Feb. 5, 1928.	Hard Fists	15.00
	Total	$136.30

Exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $136.30, total amount of pictures which exhibitor failed to pick up and upon failure of the exhibitor to comply with the decision of the Board, then the sum of not more than $250.00 as the maximum amount has been fixed to be deposited with each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade, as security for the faithful performance by the exhibitor of such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Universal Exchange vs. Colonial Theatre, Haddonfield, N. J.

Mr. Pizor acted as Chairman.

Committees: Exchanges, Heenon, Neufeld, Quinleven; Exhibitors, Axler, Goldman, Schwartz.

Claim: Contracts were signed Sept. 10, 1927, and January 20 1927, by Frank H. Karpinski covering 237 pictures, 65 of which had been played, leaving 172 unplayed. The exhibitor closed the theatre on or about December 1, 1927, without making any provision for the unplayed portion of the contract, amounting to $948.00.

The exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $948.00 covering unplayed portion of contracts.

Case #4, Universal Ex. vs. L. Headley, Seaside Theatre, Somers Point, N. J.

Committee: Same as case #3.

Claim: There were numerous contracts providing for "Standing Order Contracts."

Exhibitor was not present.

The exhibitor closed his theatre without making provision for the unplayed portion of the contracts, amounting to $1251.00.

Decision: That the exhibitor pay to the Exchange within seven days from date $1251.00 covering unplayed portion of contracts.

[fol. 2873] Case #5, F. B. O. vs. Crescent Theatre, (H. Schleifer), 84th & Eastwick Ave., Phila., Pa.

Mr. Wittman acted as Chairman.

Committees: Exchanges, Heenon, Neufeld, Quinleven; Exhibitors, Axler, Goldman, Power.

Claim: Contract dated January 26, 1926, upon which were 46 pictures, 45 had been played leaving one unplayed Going the Limit. Rental value was $10.00. The last picture played was Sept. 13, 1927. The exhibitor had dated the picture for August 23, 1927, and failed to play or pay for it.

Exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $10.00 covering the unplayed picture Going the Limit, and upon failure to comply with the decision of the Board, then the sum of $150.00 has been fixed as the maximum amount to be deposited with each distributor member of the Philadelphia Film Board of Trade with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade, as security for the faithful performance by the exhibitor of such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, United Artists Corp. vs. C. E. Buell, Opera House, Red Lion, Penna.

Committee: The same as in Case #5.

Claim: Five individual contracts in question, dated Nov. 14, 1927. Five pictures were covered by the contracts and dated by the exhibitor, which the exhibitor failed to pick up according to his dates and new dates were set in by the Exchange.

Dec. 17, 1927.	Tailor Made Man	$17.50
	Parcel Post	2.42
" 24, 1927.	Waking Up the Town	17.50
" 31, 1927.	The Girl I Love	17.50
Jan. 14, 1928.	The Only Way	17.50
" 23, 1928.	Rosita	30.00
	Total	**$102.42**

None of the above pictures has been played by the exhibitor. Exhibitor was not present.

Decision: That the exhibitor pay within seven days to the Exchange $102.42 covering the pictures which the exhibitor failed to pick up and upon failure of the exhibitor to comply with the decision of the Board then the sum of $250.00 has been fixed as the maximum amount *amount* to be deposited with each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade, as security for the faithful performance by the exhibitor of such contracts as held with the members of the Philadelphia Film Board of Trade.

Case #7, United Artists Corp. vs. Mr. McFadden, Lyric Theatre, Kulpmont, Pa.

Committees: Exchanges, Heenon, Neufeld, Quinleven, Axler, Perlin, Power.

Claim: Five contracts dated Oct. 6, 1927, for five pic- [fol. 2874] tures, none of which had been played or paid for by the exhibitor. The playing arrangement was that the pictures were to be played or paid for by February 1st, 1928. Numerous dates were requested and the Exchange set in the dates.

Jan. 2, 1928.	Resurrection	$20.00
	Parcel Post	2.53
Jan. 9, 1928.	Beloved Rogue	20.00
	Parcel Post	2.51
Jan. 16, 1928.	Stella Dallas	15.00
" 23, 1928.	Winning of Barbara Worth	15.00
" 28, 1928.	Night of Love	17.50
	Total	$92.54

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $92.54, representing the pictures which he failed to play, and upon failure of the exhibitor to comply with the decision of the Board, then the sum of

$150.00 has been fixed as the maximum amount to be deposited with each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade as security for the faithful performance by the exhibitor of such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #8, United Artists Corp. vs. Michael Dubrawsky, Palace Theatre, Sheppton, Pa.

Committees: Same as Case #7.

Claim: Contracts dated July 27, 1927, signed by Michael Dubrawsky, three contracts for three pictures. Playing arrangement to be played or paid for by December 20, 1927. Dates were requested several times and the Exchange set the dates in on November 16, 1927, for the three pictures. The pictures were refused by the exhibitor:

Dec. 5, 1927.	Stella Dallas	$15.00
" 6, 1927.	The General	10.00
	Parcel Post	1.02
" 7, 1927.	Love of Sunya	15.00
	Parcel Post	.92
	Total	$41.61

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days $41.61, representing the three pictures, plus parcel post, refused by him, and upon failure of the exhibitor to comply with the decision of the Board, then the sum of $150.00 has been fixed as the maximum amount to be deposited with each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade as security for the faithful performance by the exhibitor of his contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 2875] Case #9, Liberty Film Co. vs. Independent Theatres Co. operating the Savoy Theatre, Bethlehem, Pa.

Committees: Exchanges, Heenon, Neufeld, Quinleven; Exhibitors, Goldman, Perlin, Power.

Claim: Contract signed Sept. 7, 1926, for 14 pictures, 5 pictures were played, 9 pictures unplayed. Date of last picture May 23-25, 1927. Playing arrangement: As released. Numerous dates were requested and then dates were set in by the Exchange on December 8, 1927, on the following pictures, which were refused by the exhibitor:

Jan.	2- 4, 1928. Everybody's Doing It	$6.00
"	9-10, 1928. Oh Pal, etc	6.00
"	16-18, 1928. My Wife, etc	6.00
"	23-25, 1928. That Tumble, etc	6.00
"	30, Feb. 1. Call Me Up, etc	6.00
	Total	$30.00

The claim also was for the balance of the pictures to be played or paid for as they become due.

Exhibitor was not present.

Decision: That the exhibitor pay $30.00 to the Exchange within seven days from date for the pictures dated and left unplayed and the exhibitor to complete the balance of the contract as the pictures become due, and upon his failure to comply with the decision of the Board, then the sum of $500.00 has been fixed as the maximum amount to be deposited with each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade, as security for the faithful performance by the exhibitor of all contracts as held by the members of the Philadelphia Film Board of Trade.

Case #10, Fox Film Ex. vs. Elite Theatre, 27th & Girard Ave., Phila., Pa.

Committees the same as in case #9.

Claim: Covering the production Blood Will Tell, which was used by the exhibitor on December 26, 1927, and was

shipped out in good condition. It was received by the Exchange in a damaged condition and the cost of replacement of the damaged parts amounted to $48.00.

The Exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $48.00 covering the damaged film and upon his failure to comply with the decision of the Board, then the sum of $250.00 has been fixed as the maximum amount to be deposited with each distributor member of the Philadelphia Film Board of Trade, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, as security for the faithful performance by the exhibitor of all contracts as held by the members of the Philadelphia Film Board of Trade with such exhibitor.

Case #11, Columbia Pictures vs. Highland Theatre, Audubon, New Jersey

[fol. 2876] Committees: Same as in case #10.

Claim: Contract was dated May 31, 1927, signed by E. P. Delahunty for 60 pictures, 19 of which were played, leaving remaining 41. The last picture played was January 5, 1928. Playing arrangement—To be played as available. The following pictures were refused by the exhibitor:

Dec. 30, 1927.	Alias, etc	$50.00
" 28, 1927.	Screen Snapshots #24	2.00
Jan. 4, 1928.	The Clown	25.00
" 4, 1928.	Screen Snapshots #25	2.00
	Total	$79.00

And the claim further was for the exhibitor to play or pay for the balance of the pictures in accordance with the contract.

Decision: That the exhibitor pay to the Exchange within seven days from date $79.00 for the pictures left unplayed and that he complete the balance of the contract in accordance with the terms thereof, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of

Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were settled or withdrawn:

F. B. O. vs. Garden, Buttonwood, Pa.
F. B. O. vs. Palace, Warrior Run, Pa.
United Artists Corp. vs. Keystone Theatre, Weatherly, Pa.
20th Century vs. Orient Theatre, Phila.
Dixie Theatre, Phila., vs. Fox Film Corp.
First National Ex. vs. Garden, Buttonwood, Pa.
First National Ex. vs. Palace, Warrior Run, Pa.
Fox Ex. vs. Savoy Theatre, Bethlehem, Pa.
United Artists vs. Victoria Theatre, Westville, N. J.

The following cases were postponed to February 10th:

First National Ex. vs. Strand, Berwick, Pa.
De Luxe Ex. vs. Palace Theatre, Pen Argyl, Pa.
Pathe Ex. vs. Hunt's Theatre, Wildwood, N. J.
Pathe Ex. vs. Hunt's Theatre, Cape May, N. J.
Respectfully submitted.

Geo. P. Aarons, Secretary.

GPA:ASH.

[fol. 2877] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, February 10th, 1928, at 11:00 A. M., 1337 Vine St., Philadelphia, Pa.

Mr. S. Wittman acted as chairman.

Case #1, United Artists vs. Patrick F. Morrison, Highland Theatre, Audubon, New Jersey

Committees: Exchanges, Humphreys, Heenon, Zagrons; Exhibitors, Power, Geo. Kline, Fertel.

Exhibitor not present.

Claim: Contracts were signed by E. P. Delahunty for Morrison, under date of June 23, 1926, July 8, and 19th, 1927, provided for 15 pictures. Two pictures were played and thirteen were left unplayed. Date of last picture played was January 2nd, 3rd, 4th and 5th, 1928. The two pictures played were College, rental value $250.00, and Two Arabian Knights, $300.00. Check covering production College given by the exhibitor was returned as being N. G. Production Two Arabian Knights has never been paid for, totalling $550.00.

Playing arrangement—To be played or paid for within thirty days after notice of availability. The theatre closed and no provisions were made for the outstanding contracts $4937.50, including the two above mentioned pictures.

The exhibitor had placed deposit with the Exchange amounting to $112.50, leaving a balance due the Exchange of $4745.00.

Decision: That the exhibitor pay to the Exchange $250.00 as covered by the N. G. check and pay $300.00 covering the Two Arabian Knights which exhibitor played and did not pay for, and in addition, pay to the Exchange $4195.00 and allowing credit for the deposit of $112.50, leaving a total amount of $4745.00 to be paid within seven days from date.

Case # 2, Fox Film Ex. vs. I. Zatkin, Parkside Theatre, Camden, N. J.

Committees: Exchanges: Humphreys, Heenon, Bodkin; Exhibitors, Power, Geo. Kline, Fertel.

Exhibitor not present.

Claim: Date of contracts October 20, 1926, and August 4th, 1927. The contract of 1926 was assumed by I. Zatkin, and the contract of August 4, 1927, was signed by I. Zatkin, covering 52 comedies, 26 varieties, 59 features. Exhibitor played 35 comedies, 10 varieties and 5 features, leaving unplayed 17 comedies, 16 varieties, 54 features. Last picture was played Feb. 4th, last comedy played Jan. 30th, last variety was played Jan. 3rd. Playing arrangement was not less than two pictures per month. Exhibitor refused shows delivered amounting to $74.00 Just prior to the meeting of the Board, the exhibitor paid on account of this $42.00, leaving a balance due of $32.00.

Decision: That the exhibitor pay to the Exchange the balance of $32.00 within seven days from date and upon

[fol. 2878] his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were reported withdrawn or settled:

Liberty Ex. vs. C. E. Buell, Opera House, Red Lion, Pa.
Masterpiece Ex. vs. John Marinos, Palace, Warrior Run, Pa.
Regis Theatre, Phila., vs. Fox Exchange.
First National vs. Strand Theatre, Berwick, Pa.
De Luxe Ex. vs. Palace, Pen Argyl, Pa.

The following cases were postponed until February 17th, 1928:

Pathe Ex. vs. Hunt's Theatre, Wilwood, N. J.
Pathe Ex. vs. Hunt's Theatre, Cape May, N. J.
Respectfully submitted.

Geo. P. Aarons, Secretary.

GPA:ASH.

[fol. 2879] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, February 17th, 1928, at 11.00 A. M., 1337 Vine Street, Philadelphia, Pa.

Mr. Lewen Pizor acted as chairman.

Case #1, Liberty Film Corp. vs. Interurban Theatres Inc., Operating the Narberth Theatre, Narberth, Pa.

Committees: Exchanges, Quinleven, Heenon, Hebrew; Exhibitors, Goldman, Power, Axler.

Claim: The Theatre Company was represented by M. Freed and F. Salison, officers of the Theatre Corporation. Contract in question was signed October 24, 1927, by Interurban Theatre Co., Inc., William Crozier, Manager. It was

for twenty 2-reel comedies. Playing arrangement: As released. Dates requested December 20, 1927, and dates set by the Exchange Jan. 9, 1928. On November 5, one comedy was played by the theatre, and 19 remained unplayed. The confirmation of the contract was mailed to the theatre October 27, 1927.

Defence: That no contract would be binding on the Corporation unless it was approved in writing by a proper officer of the Corporation; that Crozier had no authority to bind the Corporation on any contract. That further, the officers of the Corporation had no knowledge of the contract and that the picture played on November 5th, being a comedy, was played under the impression that comedies could be picked up without contracts. The comedy played on November 5th, was paid for. It was further shown that under date of November 3rd, that the Corporation sent a notice to Film Board of Trade "That contracts must be approved by officers of the Corporation" and on November 4th, it was shown that notices were sent to the exchange members of the Film Board of Trade to this effect.

The letter of November 3rd, sent to the Film Board of Trade was in answer to a letter sent to the theatre in which the question of the authority of Crozier was asked by the Film Board of Trade. It was shown that four comedies booked for use by the theatre were not lifted, amounting to $30.00.

Decision: That the contract entered into on October 24, 1927, is valid and binding, insofar as a picture on the said contract had been played by the theatre, and further, that the exhibitor Theatre Corporation must pay to the Exchange within seven days from date hereof $30.00 covering the four comedies refused, and that the balance of the contract be completed in accordance with the terms of the said contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in

such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 2880] Case #2, Penn Productions, Inc. vs. Interurban Theatres, Inc., Operating the Narberth Theatre, Narberth, Pa.

Committees: Same as in Case #1.

Claim: Contract was dated October 20, 1927, for 18 pictures and signed as in Case #1. The approved contract was sent to Mr. Crozier personally, October 21, 1927, as the theatre was not opened on that date. The theatre did not open until Nov. 1, 1927. On December 15, 1927, Mr. Crozier set in for use at the theatre December 30 and 31, The Silent Hero at a rental value of $35.00. Availability notices on the other pictures were sent by the Exchange addressed to the theatre on November 15th and December 17th. No picture was played on this contract. The Silent Hero was not lifted. The contract was never approved by the theatre.

Defence: In this case was similar to defence in case #1, and further, that the officers of the Corporation had no knowledge of the contract until the picture arrived. In this case the dates set by Crozier were subsequent to the notice sent by the Secretary of the Film Board of Trade to its members under date of November 3rd, 1927, as indicated in Case #1.

The Board not being able to arrive at a decision, the vote of the Board being tie, the Secretary of the Board of Arbitration was instructed to write to the Chamber of Commerce of Philadelphia to select a seventh arbitrator.

Case #3, 20th Century Film Co. vs. Interurban Theatres, Inc., Operating the Narberth Theatre, Narberth, Pa.

Committees: Same as in Case #1.

Claim: Contract was signed by Mr. Crozier on December 7th, 1927, confirmation of play date was signed December 8th. The first picture was dated for use on January 18th and 19th, which dates were set by Crozier. On November 3rd, notice was sent to the members of the Film Board of Trade by its Secretary, as in cases #1 and #2, and further, the Theatre Corporation representatives denied at any time were any officers of the Corporation present at the

signing of the contract, nor was the contract ever approved by the authorized officer of the corporation. The contract did not provide for any playing arrangement.

Decision: The Board decided that the case be dismissed and the contract be declared invalid for the reason of it not being signed or approved by the officers of the Theatre Corporation after notice had been sent to the Exchanges, and further, that the contract had been signed and dated after the notice had been sent to the Exchanges under date of November 3, 1927.

Case #4, De Luxe Film Co., Inc., vs. Highland Theatre, Audubon, N. J.

Committees: Exchanges, Quinleven, Heenon, Hebrew. Exhibitors, Schwartz, Power, Axler.

Claim: Contracts dated June 17, 1927, covering 40 pictures; contract signed by E. P. Delahunty, as agent for Pat- [fol. 2881] rick F. Morrison, the owner of the theatre. 31 pictures had been played on the contract and 9 remained unplayed, amounting to $170.00. Date of the last picture played November 14, 1927, and the playing arrangement provided to be played as available. The theatre was closed and no provision was made for the completion of the balance of the contract.

Decision: That the exhibitor pay to the Exchange within seven days from date $170.00 covering the 9 pictures remaining unplayed on the contract.

Case #5, Liberty Film Co., vs. Alex. Fetsko, Peerless, Allentown

Committees: Same as in case #4.

Claim: Contract was signed Sept. 26, 1927, by H. Dubrawski and contracts were assumed by Fetsko.

Exhibitor was not present. It appeared that the exhibitor had used pictures from October 29, 1927, to January 6, 1928, to the amount of $79.76, without paying for the same. Although having repeatedly promised to pay for them and had given various checks to the Exchange in payment of the pictures. Which checks were returned, however, marked Not Sufficient Funds and some checks not having been presented for payment had not been done so, be-

cause of the statement made by the exhibitor that no provisions had been made by him to meet such checks.

Decision: That the exhibitor pay $79.76 as covered by the pictures played by him and not paid for during the period from Oct. 29, 1927, to Jan. 6, 1928, inclusive, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were marked settled or withdrawn:

Liberty Film Co., vs. Alma Theatre, Philadelphia.
F. B. O. vs. Broadway, Wilmington, Del.
F. B. O. vs. Palace, Pen Argyl, Pa.
F. B. O. vs. Parkside, Camden, N. J.
Crystal Theatre, Miners Mills, Pa. vs. F. B. O.
Fox ex. vs. Alma, Philadelphia.

The following cases were postponed to February 24th, 1928.

Fox vs. Jos. Rose, Rose Theatre, Phila., Pa.
Pathe vs. Hunt's Theatre, Wildwood, N. J.
Pathe vs. Hunt's Theatre, Cape May, N. J.

Respectfully submitted,

Geo. P. Aarons, Secretary.

GPA: ASH.

[fol. 2882] Minutes of Meeting of Joint Board of Arbitration Held Friday, February 24, 1928, at 11.00 A. M., 1337 Vine Street, Phila.

Mr. S. Wittman acted as Chairman.

Case #1. 20th Century Film Co. vs. D. J. McFadden, Lyric, Kulpmont.

Committees: Exchanges, Heenon, Neufeld, Humphreys; Exhibitors, Goldman, Power, Axler.

Claim: Contracts dated June 11, 1927, signed by D. J. McFadden, for 20 pictures, 12 played and 8 remain unplayed. Date of last picture played was January 5, 1928. There was no playing arrangement provided for in the contract. Picture Broadway Drifter was dated in at the request of the exhibitor and confirmed by him for January 19, 1928 for rental value of $10.00. The picture was shipped and the exhibitor refused to pick it up. The claim is for rental price of the picture and return express charges on Broadway Drifter $1.80, also return express charges on Snarl of Hate 82c, and His Rise to Fame 83c. Cost of telegram touching upon the return of Broadway Drifter $1.23, making a total claim of $14.68.

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days from date hereof $14.68 and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Columbia Pictures vs. H. Fried, Seville, Bryn Mawr, Pa.

Committee: Same as in case #1.

Exhibitor not present.

Claim: Contracts were dated July 6, 1927, signed by W. J. Haggerty, and August 9, 1927, signed by H. Fried. The total number of pictures on the contracts were 50. Two pictures were played on the contract of July 6th, and 18 were unplayed on the same contract. No pictures were played on the contract of August 9, 1927. They playing arrangement was "Seven days after Market Street." Date of last picture played on contract of July 6th, was December 12th and 14th. Picture Sally in Our Alley on contract of August 9th, 1927, was dated in by the exhibitor for use

in January 1928, and picture was not lifted by the exhibitor. Rental value $80.00. On contract of July 6th, exhibitor furnished no dates and exchange repeatedly requested dates and exchange finally set dates for Through Darkest Africa January 20-21, 1928, rental value $35.00. Alias Lone Wolf January 27-28, 1928, rental value $80.00. Exhibitor did not pick up either of the pictures, making total rental due of $195.00.

[fol. 2883] Decision: That the exhibitor pay to the Exchange within seven days from date $195.00 the value of the above productions, and upon his failure to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Columbia Pictures vs. E. P. Delahunty, Highland, Audubon, N. J.

Committees: Same as in Case #1.

Exhibitor not present.

Claim: Date of contracts July 8, 1926 and May 31, 1927, signed by E. P. Delahunty. There were 54 pictures, 19 of which had been played, leaving 35 pictures unplayed. Date of last picture played was January 5, 1928. Playing arrangement "To be played as available." The theatre was closed without making proper provisions for the unplayed portion of the contract covering the 35 pictures, amounting to $1135.00.

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $1135.00 the rental value of the 35 unplayed pictures.

The following cases were reported settled or withdrawn:

De Luxe Exchange vs. Parkside Theatre, Camden, N. J.

Fox Ex. vs. Savoy Theatre, Bethlehem, Pa.

tion than I have to make a rule of conduct for the guests of this hotel. The authority of the board of arbitration is absolutely limited to that given the board under these rules, and it can not be widened under any circumstances. If the arbitrators who are acting as such under appointment are unwilling to abide by the rules, they are unfaithful to the obligation they assumed when they agreed to *to* accept the [fol. 2810] appointment as arbitrators, and they may very well, and in good grace be asked to withdraw. These rules were carefully prepared, they were carefully drawn in consultation with exhibitor organizations upon the advice of excellent counsel, anticipating all that then could be possibly thought of, and we cannot permit exhibitor organizations or Film Board of Trade members to extend these rules beyond what they provide. For example, on the question of reopening a case I have written practically to all of you to the effect that once an award is made it cannot be disturbed except under certain conditions. The award made by the arbitrators once it is recorded cannot be affected by any subsequent action of the arbitrators for the reason that their functions cease immediately the award is made, just the same as a jury, once it has brought in its verdict, may not change. It would be a sorry state of affairs if under our system of laws the jury in a case could bring in a verdict and then after a short time or any length of time come into court and say, "Oh, we think we made a mistake," or "We want to change our mind and change our verdict." There would never be any finality to litigation, and God knows there is enough of it now under our present system.

An award in states where there is statutory arbitration which is the result of prejudice of the arbitrators, fraud or misbehavior of some kind, or of a misconception of the facts may be set aside upon application to the court. For that reason I suggested to and have advised the boards of arbitration in states that have no similar statutory arbitration provisions to proceed as if the board of arbitration itself were a court and that application to the board of ar- [fol. 2811] bitration as such may be made to set aside an award but only for the reasons set forth in the statutes. I have not enumerated all the reasons, they are specified in the United States Arbitration Law and in the statutes

of states that have arbitration laws, which law may be used as a guide for the arbitrators.

Now, the mere application to set aside an award for one or more of these reasons is not sufficient. There must be evidence and proof of the reasons submitted with application when made. In other words, if a dissatisfied party to a controversy against whom an award is made wants to make application to set it aside, the mere statement of that party that the award was procured by fraud is not sufficient. There must be presented sufficient proof or evidence of the fraud in the form of affidavits or correspondence or statements. There need not be a strict adherence to the technical requirements that courts insist upon to convince the arbitrators in the exercice of their discretion that enough evidence has been submitted upon which to proceed; in other words, if there is probably cause shown for setting aside an award on the grounds that are set forth in the application. When that conclusion is reached then the award may be set aside; and when it is set aside proceedings should again be taken as if no proceedings had theretofore been had. In other words, they start all over. Hear all the evidence again and then make a new determination. If any of your Boards have any rules or any Boards of Trade have any by-laws with respect to reopening of awards, they [fol. 2812] should be discussed with the members and you should tell them what I have told you this morning so that such rules may be rescinded.

Some confusion has been caused by reason of the rule which provides that the expense of the exhibitor—his railroad fare from the point where his theatre is located to the place where the controversy is heard and return plus $10.00—should be paid in case the exhibitor is successful. Bear in mind that that rule does not apply where the complaint is made by the exhibitor, it is his case and he must bear the burden of the expense, whether successful or unsuccessful. It is only where a complaint is made by the distributor and the exhibitor is successful that the board may in its discretion include in the award an allowance for railroad fare limited to the railroad fare to and from the point of location of the exhibitor's theatre plus $10.00.

I can not be too emphatic in insisting that the following paragraph be complied with by the boards of arbitration:

"The board of arbitration shall not have power or authority to adopt or apply any rule which shall be at variance with any of the provisions of the Standard Exhibition Contract or any other contract between the parties or the rights and obligations of the parties thereunder." That is very clear. It is not subject to misconstruction. There is no ambiguity in that paragraph and the boards of arbitration must be guided by it. We negotiated and we argued and we conceded and we finally agreed after a period of over one year on a standard form of exhibition contract. The concessions were made to the exhibitor representatives. Finally we reach an agreement with such [fol. 2813] representatives. Therefore it may be fairly stated that the Standard Exhibition Contract today, expressing the trade practices and the trade customs of the business and represents the thoughts of the exhibitors and the distributors of the United States. Having accomplished that, it is not for the board of arbitration to change or modify or alter any of the terms of the contract. The board of arbitration has no more right to change a play date, to change a rental price, to add to or take away from the list of pictures specified in the contract than I have at this moment to demand that you should all give me the money that you have in your pockets. The parties when they have made a contract, when they sign the contract, have expressed in words everything that has taken place during their negotiations, and the lawyers in this room will tell you that there is no rule of law that is enforced with more strictness in all courts all over the world than the hearsay rule of evidence. Parties to a written agreement, having negotiated their contract and having executed it, have expressed all that has been discussed in their negotiations. In other words, the courts say that everything that has taken place prior to the execution of a contract is merged in it; and the parties having expressed their agreement in their contract may not be permitted to contradict what they have therein set forth. It was the exhibitors who insisted that the contract when printed should have the provision, "No promises or representations have been made by either party to the other except as set forth herein" printed in italics to direct it to the attention of exhibitors. [fol. 2814] There may be collateral verbal agreements,

proof of which the courts will permit. By a collateral agreement I mean an agreement, verbally or in writing, at the same time that a written agreement is made, the terms of which do not alter or modify or contradict the written contract. The exhibitor and the distributor may make a contract for a certain number of pictures at a certain rental. At the same time they may agree in a written document or verbally that the pictures shall be played within a period of six months or that the rental provided in the contract shall be paid weekly instead of in advance, or any other agreement collateral to the main agreement which does not modify or contradict it, particularly if it is a verbal agreement.

Now, as to chairmen of the Boards of Arbitration. My own opinion is that a chairman causes trouble. You clothe one of the arbitrators with what he thinks is more authority than the others. As a matter of fact he hasn't any more authority. An arbitrator chairman has no more rights than the other arbitrators. A chairman has no more right to pass upon the admission or rejection of evidence or on any question than any other arbitrator acting alone. Such questions should be determined by the whole board or a majority of them. I admit that a chairman is conducive to keeping order and decorum. The purpose of his appointment, if you are going to have a chairman, should be absolutely limited to that. All the chairman should do is to see that the hearings are conducted in an orderly and decorous manner, he cannot take upon himself to pass upon the admission or rejection of evidence or pass upon any other [fol. 2815] question unless all or a majority of the arbitrators are in accord with him.

On the question of fixing an amount of security: When you prepare an award incorporate the amount fixed by the arbitrators as security. I want to say that it is of no particular importance whether the arbirtators do so or not. The rules provide they may. If they fail to do it, the distributors may then do it. As to the boards of arbitration that refuse. If you can, tell them that by their failure to fix the amount of security they have automatically fixed it at $500.00, giving the distributor the right to fix the security limited by the rules. If the arbitrators fail to exercise the right given them to reduce the maximum from $500 to

$250 or $300 they have simply waived the right, and then the distributor has the right to ask up to $500. While I am on that subject it is very important to impress upon your members as strongly as you can the matter of fixing the amount of security to be demanded. One of the arguments that was made by the department of justice was that the distributors acted in concert in fixing the amount of security when the rules did not provide for it. We argued that by implication the rules did not provide for fixing the amount of security. In fixing the amount of security the distributors must not have any understanding or agreement, and there must be no such thing as a gentlemen's agreement or tacit agreements and nothing that can be implied from their actions that there is an agreement to fix any definite sum. That requires a great deal of emphasis and it is of the utmost importance so far as the operations of the Boards are concerned because if we can show the [fol. 2816] department of justice in a year or two years from now that this rule has been faithfully carried out and show by our records the different amounts that have been demanded by distributors we will have accomplished much. If there are ten pictures contracted for and the rental of one of the pictures is $400 and the rental of another picture is $10 the distributors may select the $400 picture as the basis for fixing the amount of security. They must fix the security upon the basis of the cost of the print plus the rental of any picture. They may select the picture that has the highest rental. Under no circumstance may the distributor demand more than $500 security. I think all of you have that pretty clearly in mind.

On the question of adjournment: As you know, the rule is that three days prior to the date fixed for a hearing either party may ask for an adjournment, and in respect to the time fixed in the rules, use your own discretion. If you believe the request for an adjournment comes as a surprise and that the application is being used to take an unfair advantage of the other party, why, then call attention to the rule. If not, disregard the three day limitation. Use your own judgment in each case. In that connection I want to say this: Where an appearance either by letter or in person has been made by an exhibitor, advise your board in the exercise of their judgment to give the exhibitor as

many reasonable adjournments as is possible without sacrificing or prejudicing the rights of the distributor, and I make that statement for this reason: You know the old [fol. 2817] saying every dog is entitled to his day in court. We do not want to be charged by exhibitors with having forced them to proceed without giving them the opportunity to be heard. Do not permit this indulgence to be abused. I have a case in mind where an exhibitor every time his case was brought up found some sort of an excuse for another adjournment. But when an application is made and it appears to be reasonable and the excuse is a fair one, urge that it be granted, recommend that it be granted so that the exhibitor is always given an opportunity to tell his story. If necessary you can in order to stop these applications for adjournment warn the exhibitor that his case will be set down peremptorily against him and no further applications for adjournment will be heard. Always have your records clear that every reasonable request for adjournment was granted, so if the matter is ever litigated you will always be in a position to tell the court, "This man was given every chance to present his side of the case but did not take advantage of the opportunity given him." In that connection, I want to say that there has been some statements by trade papers, lawyers and some exhibitors that default awards impose a personal liability upon the arbitrators. What theory of law or idea or reason is advanced for that statement I have not been able to learn. There is no liability on the part of the arbitrators for any award they make excepting that there is a possible liability if they make an award by their fraud. The arbitrators have a perfect right to proceed to hear the testimony where one of the parties does not appear, and in that connection [fol. 2818] I want to say, be sure that the testimony is heard; in other words, that an inquest is taken. Where there has been a default in appearance by one party, by the defendant or respondent to a controversy, require the complainant to make out a prima facie case. Have him present his contract, make a statement of the facts, the breach claimed and such other details as are necessary for the board of arbitration to intelligently make an award.

Now, I come to a very important section of the rules. What I am going to say I know you will not like to hear

but I am bound to tell you because we must abide by these rules. What I am about to tell you may cause some hard feeling among your members and differences between the Secretaries in overlapping territories. There is only one time under these rules and regulations when the members of your boards can act in concert in demanding security. At no other time and under no circumstances may they so act. That one time is when an exhibitor has failed to comply with an award or has refused to arbitrate. By that I mean. It is only those members who have existing contracts with an exhibitor against whom an award is made who have a right to demand security because of the exhibitor's failure to comply therewith. If a member of your board has no contract with the exhibitor, of course, he can not demand security.

Let me repeat: At no other time may your members act in concert under these rules excepting upon the refusal of the exhibitor to comply with an award or his refusal to proceed to arbitrate. Then and only then may they demand security on each of their existing contracts, and by each [fol. 2819] contract, I mean each contract. There is only one exception that may be made with respect to each contract and that is United Artists, because of their sales policy. They take a separate contract for each picture and in such case United Artists should consider contracts taken simultaneously, that is, those taken at the same time should be considered as one contract, but if they have contracts taken at different dates, then I believe they should demand security on each of those contracts, but only when they have a group of contracts taken at the same time may they be considered as one contract. This exception applies to anyone that takes a one picture contract.

I know that practically that all the national distributors have separately and individually adopted as a policy in respect to exhibitors who fail to comply with awards against them or who refuse to arbitrate, of refusing to do business with such exhibitor because an exhibitor having been found by an unbiased tribunal of his own selection to have breached his contract with another distributor, they think it is good business judgment not to become involved in any business transactions with such exhibitor. That is practically the policy of every national distributor, and their

branch managers knowing it should act upon that policy. That policy was adopted not as a result of any agreement or any understanding among these distributors. It was simply brought about by the exercise of their separate judgment reaching the same conclusion from the same state of facts, not as a result of consulting with each other or of any contract or agreement or understanding among them. [fol. 2820] They all feel and justly so that it is bad business to accept business from a man who has been found to be a contract breaker.

That brings us to this situation: Where an award has been made against an exhibitor who fails to live up to his contract and security is demanded on the existing contract by your members. Those who have existing contracts may —and they are not violating any rule if they do so—enter into a new contract with that exhibitor with or without security. Members who have no contract may enter into a new agreement with that exhibitor with or without security.

I can see the look of doubt in your eyes and since your thought that if this is so it is going to break down arbitration and the enforcement of awards.

If one of your members is so hungry for business that he has to go after the business of an exhibitor who has breached his contracts with other members, the chances are that the contract he accepts will come before the board of arbitration. When he gets his award his fellow members may feel that they are willing to take a chance with that exhibitor just as he did. I assume you would not want to do business with anyone who had been found by a court to have defrauded his creditors or who had not conducted his business ethically and fairly unless you are fully protected by security or payment in advance.

Because of the fifth paragraph of rule four if a distributor fails to comply with an award it is part of the scheme of our arbitration system to cut off the distributor's right to have heard any claims which are then filed, but the distributor is not prevented from filing new claims. All claims must be held in suspense until the exhibitor has complied [fol. 2821] with the award. Such failure of the distributor does not affect existing awards in its favor.

While the rules do not provide specifically that awards may be made by a majority vote of the arbitrators, the arbitrators must act by the rule of the majority.

The signing of an award, so far as its enforcement is concerned is unnecessary under these rules. In states where there are arbitration statutes and a distributor seeks to enter a judgment upon an award, then all the provisions of the statute must be complied with. If the statute in your state provides that an award be signed and acknowledged, then it should be signed and acknowledged by all of the arbitrators or a majority of them.

Another thing that is very important and a change in procedure will be required in many places. Let me read you this rule, paragraph three of rule four:

"3. Subject to the provision of Rule 2, on receipt of any such notice, each member having a contract (or representing a distributor having a contract) containing the Arbitration Clause with any such exhibitor shall demand payment by such exhibitor of such sum as in the judgment of such member of distributor shall be sufficient to protect such member or distributor in the performance of each contract with such exhibitor. Said sum shall not exceed the actual value of any print thereafter to be delivered under each such contract plus the rental contracted to be paid [fol. 2822] therefor, and in no case shall exceed the maximum amount fixed by the Board of Arbitration as aforesaid. Thereafter each distributor (represented in the membership) to whom such exhibitor shall have failed within seven (7) days to pay the amount of security so demanded by such distributor shall proceed to suspend service under each such contract until such exhibitor shall have furnished such security or complied with the decision of such Arbitration Board."

I will stop there for a moment. That means when you notify your members that they should make a demand for security on a certain date, within seven days of that date without any further notification from you they must suspend service if their demands are not complied with. No second notice ought to go out to the exhibitor. No second demands are to be made by the distributor. If a distributor

wants to cancel a contract, it may be done under the following:

"If service under any such contract shall be so suspended for a period of ten days such contract, at the option of the distributor, may then be cancelled."

The demand is made for security. If the demand is not complied with within seven days the distributor by written notice suspends service. If service is suspended for a perior of ten days the distributor may exercise his right to cancel the contract, and if he exercises his right he then notifies the exhibitor to such effect. If he does not exercise that right then he gives the exhibitor no further notice.

[fol. 2823] We think that where an exhibitor has paid for his pictures in advance, as to those pictures it is the better policy of the distributors not to suspend service. So understand that where service has been paid for in advance—I do not mean by a bad check, I mean where it has been paid for and amount has been received and deposited—the distributor should continue deliveries, only however of those pictures which were paid for.

Sometimes an exhibitor will resort to a trick. A distributor make a demand upon an exhibitor for security, say of five hundred dollars. This exhibitor has contracted with that particular distributor for pictures, say, at a rental of twenty dollars a piece. The exhibitor knows that unless within seven days he puts up that five hundred dollars he is not going to get any pictures from that distributor, so before the expiration of the seven days he either comes into the exchange or sends into the exchange a check in payment for ten pictures, say, two hundred dollars, and he knows that the delivery of the ten pictures can not take place until after the date when he has to meet the demand on security. He also knows that it is the distributor's policy not to refuse service for pictures paid for in advance. So, anticipating that he is not going to put up the security he sends in his check or comes in and pays for a sufficient number of pictures to keep him going for maybe six or eight or ten weeks. Under such circumstances the distributors may say, "We have demanded

security for the performance of our contract, and until you have complied with that demand we will not accept payment in advance for pictures which are deliverable after the date when you are required to make payment of secur-
[fol. 2824] ity, and I herewith return your check number so and so for such and such an amount." The trick of the exhibitor is by the payment of a lesser amount that he is required to deposit as security he figures he can get pictures.

Now, as to deposits: The distributors can take checks, but if a check comes back "N. G." or "N. S. F." service must then be suspended because the demand for security has not been complied with. When a check is given it may be assumed it will be paid, but immediately such check is returned and payment thereof refused by the bank service should be suspended. In such case distributor may write to the exhibitor to the effect that "because of your failure to give us security demanded by reason of the nonpayment of your check number blank dated blank we shall suspend service on June blank 1927."

Suspension of service of serials and newsreels must be made as well as features. A newsreel is a motion picture contracted for and distributors must suspend service on every contract.

I want to relate to you a position taken by a board of arbitration. The exhibitor members of the board resented the fact that settlements or compromises of awards were effected because they said it was an affront to them, not to consult them with regard to any compromise because they had made the award, that the distributor had no right to make any compromise or any settlement of any award unless they approved such compromise. That position is simply too absurbed to discuss, but I am telling you this because one of your arbitrators may get the same sort of idea.

[fol. 2825] Assuming that Pathe, Universal and United Artists each obtain an award against the same exhibitor effective on the same date. Demand for security for the performance of each existing contracts should be made by members having contracts. Naturally, the companies in whose favor the award is made do not make any demand for security for the performance of their contract. If the

exhibitor complies with United Artists' award, then United Artists is placed in the same position as the other distributors having contracts with the exhibitor, and in order to supply the exhibitor with service United Artists must demand security for the performance of their contract. Then if the exhibitor goes to the second distributor and complies with its award, that distributor is also placed in the same position as the other members having existing contracts, and must make demand for security until all three awards are complied with. If all the members of a Board get an award against an exhibitor none of them need demand security. When an award is made, the distributor has nothing to do; he is not obligated to do anything. He sits and waits until the award is complied with. They can not demand security upon a contract upon which an award has been made.

In the event that an award is made in favor of one distributor and demands for security are made and at a subsequent date another award is made against the same exhibitor in favor of another distributor and the exhibitor fails to comply with such other award, under such circumstance, in order to take up the difference in time required to make the demand on the second award and the time that would elapse when the exhibitor complies with the first award, my advice would be to have the distributor [fol. 2826] send out a second demand to this effect: "We are advised that another award has been made against you and because of your failure to comply with that award we herewith demand security for the performance of our existing contracts with you, etc." I think that is the procedure to follow. It is not necessary for the distributors to make a second demand if security has been once furnished in compliance with the first demand. Only the distributor to whom security has not been paid in response to their first demand should make a second demand in order to take up that interval of time. You may advise your members that under such circumstances where an award is first made in favor of one distributor, and after an interval of time an award is made in favor of a second distributor, the failure of the exhibitor to comply with the second award although he has not complied with the first one, requires the distributors to whom security has not been paid in response to their first demand, to make another

demand for security for the performance of their contracts so that if the exhibitor should comply with the first award there would no interval of time between demand for security and suspension because of the exhibitor's failure to comply with the second award. The following form of letter may be used: "Heretofore we have demanded security for the performance of your contract because of your failure to comply with an award in favor of Universal. We are now advised that you have failed to comply with an award of Famous Players, and we again demand security, etc."

[fol. 2827] In the case of a distributor in whose favor an award has been made upon one contract having other contracts with the exhibitor, the distributor in whose favor the award is made may demand security for the performance of those other contracts. So in such case you have an awarded distributor in the position of demanding security for a performance of contracts other than the one upon which the award is made.

There would be objection to the awarded distributor so demanding security. The rules do not squarely provide for it, but it seems to me it would be well for such distributor to demand security for its other contracts as a precautionary measure.

I do not want any of you to feel because we have this convention and we are having this discussion that you are under any restraint whatsoever to communicate with Mr. Pettijohn or me to ask any further questions. We in New York are there to help you and it is our job to advise you at all times. I do not want any of you at any time to feel that you are writing too many letters or that you are asking silly questions, nor that you are putting too much of a burden upon us because we have a responsibility we will never try to avoid. If it is necessary to write ten letters a day in respect to anything that concerns you or your board, do not hesitate to do so. Do not feel for a moment that because of this discussion in the last two days you know all about Film Boards. Even I feel I do not. In the nearly three years that I have been associated with this work every single day has brought forth some new angle of [fol. 2828] the work requiring thought and attention, and I am sure there will be just as many new problems and

questions in the future as *they* were in the past. Do not feel reluctant to write to the New York office at any time. We are always glad to hear from you and we are always glad to help you.

Under no circumstances employ local counsel. Mr. Pettijohn and I are confident enough of our competency to answer all questions that may be presented to you that could be answered by local attorneys. If we deem it necessary that local attorneys be employed, we will arrange to employ counsel for you, and as some of you can testify whenever we have employed counsel they have always been the best procurable in their locality. We have the means of securing knowledge of who is the most eminent counsel in any locality. We know their affiliations both professionally and politically, and we feel much more confident than your members to select counsel, so always keep this in mind. Mr. Wiggins, I want you to particularly impress upon your members that under no circumstances are they to employ counsel for anything unless we know in advance for what purpose and *and* who it is proposed to employ.

Now, just one thought before I take up the contract. Let us always understand that there is no rule or regulation or penalty that may be made or imposed which can in anywise conflict with the contracts made nor with the procedure for arbitration provided for in the contract. There is nothing that the members may do that will in anywise affect the contract or the procedure providing for arbitration, but I think we have taken care of that situation under the plan we outlined this morning.

[fol. 2829] Another thing I want to call your attention to: The question of double features and the question of minimum price of admission. Film Boards of Trade have nothing to do with double features; that is a matter of policy for the individual distributor. Your members may discuss the subject but the Film Boards as such can take no action in respect thereto.

Minimum admission price: While the Film Boards of Trade may be concerned with that subject because of the fact that the contract provides for a minimum admission price of ten cents, for the time being I prefer that all of

you will diplomatically avoid bringing up the question of enforcement of that provision of the contract for the reason that the law is not definitely settled as to the right of the distributors to enforce this provision. Furthermore, we have so many other important things under the contract to consider, that while it would be a benefit to the exhibitors to enforce that provision we do not believe we should take the burden of setting that question at this time, so let us diplomatically avoid bringing it up. If it is brought up do not hesitate to write us about it and tell us what your problems are and we will try to help you.

As to transfer of theatres under the Credit Committee Rules. I did mention that the transfer of stock in a corporation by one person to another was not a transfer contemplated by the Credit Committee Rules, so you need not consider that as a transfer. There is a tendency now to organize what they call holding corporations, that is, a corporation which does not actively engage in business but simply holds the stock of many other subsidiary corporations. If there is a circuit of theatres or any number [fol. 2820] theatres each separately owned by a corporation and a holding corporation is organized either for a public issue of stock or for any purpose the stockholders may wish to carry out, the transfer of the stock of the theatre corporations to the holding corporation is not to be considered a transfer of the theatres of the separate corporations.

There is one other thing before I conclude concerning the rules and regulations. It is very essential that all arbitration board meetings be conducted in a most decorous and dignified manner. Arbitrators, claimants, exhibitors and others who attend the meetings of the Boards of Arbitration are inclined to be facetious. A facetious remark often leads to a claim of prejudice. Somebody recently reported to me that one of the arbitrators in going into the arbitration board meeting saw an exhibitor against whom a very important claim was pending, and in a facetious way said, "Well, your goose is cooked." The result was when the award against the exhibitor was made he took the position that that arbitrator was prejudiced. Discourage wise cracks and kidding. Let all understand that

the board of arbitration meetings must be conducted in as dignified a manner as a court. In court they certainly would not conduct themselves in any manner which would require the judge to call for order. Therefore, I think you Secretaries can get over the thought that arbitration, particularly when strangers are apt to come in, I mean people who are interested in arbitration—and that interest is growing wider every day—drop in to your board or ask for an opportunity to sit in at your hearings to learn something of your procedure and your methods of arbitration, should be conducted in a dignified manner. I [fol. 2831] know the managers are inclined to kid each other. Well, discourage that as much as you can and try to have your meetings conducted quietly and in a dignified and orderly manner.

One other thing: Personally, I would prefer that all hearings be held in private, limited to the arbitrators, those connected with the board of arbitration and the persons interested in a controversy because one of the big arguments that is made by those in favor of arbitration and its adopition by all industries is that the parties get a speedy determination of their controversy without publicity. In other words, they may iron out their difficulties before arbitrators who determine and reach a conclusion without the world knowing of their differences. You will have to adapt this suggestion dependent upon conditions in each territory. If the local trade press people want to sit in, why, that is all right. However, impress upon such press representatives that the parties are not particularly concerned about having their differences aired in the public prints and for that reason arbitration was adopted in the industry, particularly discourage exhibitors who have nothing to do with arbitration proceedings or are not concerned in a controversy, especially those exhibitors who are active in exhibitor organizations unless they come in a representative capacity to represent an exhibitor having a case heard. I assume the deliberations of the arbitrators are always held in private, and I do not think I need to make any further comment on that.

The time is too short to take up the contract clause by [fol. 2832] clause, so I have selected some recent letters

written within the last two months, and I think we can save time if I read them.

Mr. Pettijohn: So many of your members have never read the contract, have them read it often, particularly to salesmen and bookers.

Mr. Hess: The question which I am going to discuss was raised by Mr. Fitzgerald in the Washington, D. C. territory. You will get the facts from the letter. (Here quote Mr. Hess' letter to Mr. James B. Fitzgerald, Secretary, Washington Film Board of Trade, Washington, D. C., dated May 16, 1927).

Now, further in that connection I wrote to Mr. Zears, Secretary, Oklahoma City Film Board of Trade. (Here quote Mr. Hess' letter to Mr. Charles R. Zears, Secretary, Oklahoma City Film Board of Trade, Oklahoma City, Okla., dated March 10, 1927-.

I want to emphasize the question of the designation of a date or dates by reading a letter I wrote to Miss Littell: (Here quote Mr. Hess' letter to Miss Audrey Littell, Secretary, Charlotte Film Board of Trade, Charlotte, N. C., dated April 18, 1927).

Now, on the question of designating play dates and on the question when is a contract "outlawed," as it is termed. As I read the contract, it provides that unless the date or dates are specified in the contract or otherwise agreed upon, the control of the play date is lodged in the distributor under Article nine subject to the right of selection given to the exhibitor under that article. The clause that you usually see in a contract, "to be played or paid for before [fol. 2833] September first" does not permit the distributor to sit back and wait until September first and then claim a breach of contract. I believe the distributor is obligated to give notice of availability within a reasonable time after a picture is available. The clause is only a limitation upon the time within which the contract must be performed by the exhibitor, that is a shortening of the one year period. The clause may also indicate the agreement of the parties as to the intervals during which the pictures should be exhibited, for example, one a week or two a month. It does not fix the play date unless the date is specifically fixed. Famous Players, realizing that, have printed a year's calendar on their new form of contract and they will insist that

the salesmen and the managers agree with exhibitor upon definite fixed dates by putting a circle around the dates and the months, indicating in that way by appropriate language the play dates for the pictures contracted for, Famous Players agreeing to give four weeks notice of the date of availability of each picture.

On the question of the so-called "outlawing" of contracts: It was at the suggestion of the exhibitors that the provision was made that claims on contracts should be presented to the board of arbitration within one year from the date of the breach of the contract or the act of omission or commission which brought about the breach. So, it should be obvious to everybody that the date of the contract does not control nor does the date of the playing of the first picture or the expiration date of the contract control. Anytime that a breach occurs, no matter when, while the contract is in force is the beginning of the period of [fol. 2834] the one year within which a claim must be filed; so that a contract, let us say, dated January 1, 1927, running through to February 1928, before it is completed. Just prior to February 1928, a breach occurs; then one year from February 1928, is the time within which the distributor may file a claim, the controlling date for the beginning of the one year period within which the contract must be presented to the board of arbitration to secure an award is the date of the breach or the act of omission or commission which caused the breach. I might add that an act of omission is something which the exhibitor omits to do which under the contract he is obligated to do. And an act of commission is something that he does which the contract provides which he should not have done. The words are self-explanatory. For instance, an exhibitor is obligated not to permit the exhibition of pictures in any theatre other than the theatre for which they are contracted for. If he permitted the exhibition of the pictures in another theatre, that would be an act of commission because it is an act which he obligated himself not to do. Now, as to acts of omission. If he fails to return a print; if he fails to pay the rental, those are acts of omission. The happening of such events brings about a breach of a contract, and from the date of their happening for instance, if he permits a picture to be shown in another theatre on a certain date, which is a

breach of the contract, a year from that date, the distributor has a year from that date to file a claim. I hope that you all are pretty well clear on that.

[fol. 2835] On the question of allocating both play dates and rentals. You all know, and I think now it is an established fact, that Film Boards of Trade are not permitted to allocate prices on contracts. When that announcement was made to you, all it included play dates, I think. You have got to maintain the principle that the allocation of play dates unless consented to by all who are concerned may not be forced upon non consenting members. I will read you a letter in that connection I wrote one of the Canadian Secretaries. (Here quote letter referred to above.)

That I think is pretty well established in all of our minds and I am emphasizing it now. I get telephone calls from some of the home offices asking, "What the hell did you let the Film Board of Trade out in 'X' territory allocate my play dates? We won't consent to it and we are never going to consent — it and you know our policy and that is all there is to it." This allocation idea creates hard feelings among the members, but you have got to convince them as I feel I have convinced you before and again today, it is nothing that the Film Board of Trade have any concern with. We are trying, Mr. Pettijohn and I, to draw in as much as possible the activities of the Film Boards of Trade so as to limit them to arbitration and the standard contract, to keep within the limits which were contemplated when the Film Boards were organized, because as Mr. Pettijohn has said if we were inclined to carry on without any additional cost the distribution of pictures the distributors would be perfect- willing to let us do it.

I recently had a complaint from one of the branch managers that a couple of distributors in his territory had [fol. 2836] accepted contracts without any playing arrangement, and when he obtained an award they rushed in and agreed upon playing time with the exhibitor substituting for his pictures their pictures on the days that the exhibitor had therefore agreed were to be his days. I wrote him as follows: (Here quote letter referred to above)

If an award is made against an exhibitor and he has — contracts with First National, Famous Players and Metro, and the contracts provide for the playing of one picture a

week, it has been their practice when the exhibitor puts up security with two of them not to favor that exhibitor by changing the contracts so as to give him two pictures a week. They will comply with their contracts strictly and will grant no favors in the way of a modification of or change in their contracts to an exhibitor who has failed to comply with the award and seeks to avoid compliance by putting up security as provided under the rules.

Recently the question was asked, does the sale of advertising matter to an exhibitor between the time of making his application and its approval work an implied acceptance of the application, and I have taken the position that it does. My reasons are very simple: An exhibitor makes an application and he buys advertising material. It is sold to him not to put on the shelf, but with the knowledge that he is going to use it in his theatre to advertise to his patrons that a picture which he has contracted for is going to be shown. I think it is analagous to a shipment of a print of a picture for which application has been made. Certainly that is unquestionably an evidence of the accept- [fol. 2837] ance of the contract by the distributor.

I have one more subject. I feel the contract has been thoroughly discussed with each of you by correspondence.

Now, on the question of the date of acceptance, there still seems to be some confusion. The law is well settled that the acceptance of an offer is brought about in this way. An offer is made. It may be accepted by mail or telegraph. Upon the deposit in the mail of the letter of acceptance within the time provided in the contract or the filing of the telegram (the time of the filing of the telegram in the telegraph office) there is an acceptance of the contract. Whether the letter or the telegram reaches the exhibitor or not does not make any difference. The law presumes that a letter mailed or a telegram filed has been received so that the withdrawal of an application is of no effect if it reaches the hands of the representatives of the distributor after the time the letter of acceptance has been mailed or the telegram filed within the time provided in the application for acceptance. If a distributor has ten days in which to accept an application and the exhibitor writes letter of withdrawal or telegraphs a withdrawal to the branch manager delivered on the sixth day, if on the fifth day New York filed a telegram or mailed a letter of

acceptance, such acceptance is valid and the notice of withdrawal is of no effect.

The contract provides it shall be accepted in a certain way and we might just read that provision of the contract:

"This instrument shall be deemed an application for a license under copyright only and shall not become binding until accepted in writing without alteration or change by an [fol. 2838] officer of or any person duly authorized by the Distributor and notice of acceptance sent to the Exhibitor as herein provided."

In that connection I would like to read you a form of award that I suggested to Mrs. Walton, Secretary, Memphis Film Board and then I am finished: (Here quote form of award referred to above in instance where theatre closed)

One more subject and I am finished: With reference to my recent letter recommending the organization of a conciliation committee. That recommendation was made to all of you, I think, some time in March; and it was an agreeable surprise to hear, when I got here from one of the Secretaries, Mrs. Moffet, that promptly upon receipt of advice from New York the Cleveland Conciliation Committee was organized. They got to work, and she was able to report to me one month's operation, during the month of April, with this result: In 1926, during the month of April she had twenty one cases that were heard and determined by the Board of Arbitration. In April of 1927, because of the action of the Conciliation Committee, because of their good work, the Board of Arbitration considered but six. That to me is the clearest demonstration of the efficacy of conciliation. Conciliation, as I expressed it to you in my letter, is simply an attempt to bring parties in a dispute together to reconcile their differences. If the Conciliation Committee do not succeed, why they can go to arbitration. I hope that when you go back you will give a lot of serious and much thought to this subject and talk it over with your members to bring about active work in such regard. Some [fol. 2839] misconstruction has been placed on the makeup of the committee. The committee should be made up of exchange men or branch managers, two of them, not more, unless a claim is filed by an exhibitor in which case you

might invite an exhibitor representative to act with your conciliation committee. Do not invite an arbitrator, and during the time that your members are acting as arbitrators, do not permit them to act as conciliators.

Now, as to the copyright protection bureau. The distributors of pictures and we as an organization in New York are firm in our determination to wipe out bicycling and the switching of pictures and other dishonest practices of exhibitors who secure pictures without paying for them. You all understand my theory of asking the Boards of Arbitration for awarding damages for bicycling. I am going to it. I think we are all in agreement that the evil of bicycling is one that affects mostly the exhibitor and to a great extent the distributor. The bicycling exhibitor who does not pay a film rental for his pictures is the unfairest kind of competition to the honest exhibitor who does pay. This is evidenced by the expression of opinion by exhibitor organizations all over the United States and of most and lesser prominent exhibitors all over the country. Exhibitors want to cooperate to the fullest extent to wipe out an evil that has been troubling the industry from its beginning to the end that no exhibitor in the United States will be able to show a picture unless he pays a fair and reasonable rental for it. I do not care what the amount is so long as he is on the same footing with the honest exhibitor and is [fol. 2840] not getting the larger part of his picture show, which is 95% of his entertainment, for nothing by stealing, and there is no other way to put it, no better way to describe his act than to call it stealing. Stealing the revenue out of the tills of the distributor. Nobody disputes that position.

Because of the fact that we have an arbitration clause in the uniform contract which provides that no dispute or controversy may be litigated until it is first submitted to arbitration, distributors are placed in the unfortunate position where they may not go in the United States Federal Courts, which have jurisdiction of violation of copyright, to seek the damages that the courts are bound under law to give on proof of infringement. There is no doubt that the unauthorized showing of a copyright motion picture is an infringement of copyright just the same as the unauthorized sale of a copyrighted book. The owner of a copyright of a motion picture is in the same class as the author of a story. He is the sole and exclusive owner of the right to

show that picture and while he may license that right just as the author licenses the privilege of publishing his book for royalty, there is nobody can claim the rights of a copyright under the copyright statutes but the copyright owner.

Now, the copyright laws provide that for "every infringement of copyright in the case of unauthorized showing of pictures, or any other copyrighted material the court must, it has no alternative, the court must fix as the minimum amount of damages the sum of two hundred and fifty dollars and may award an amount of damages not to exceed five thousand dollars. Also it is the practice of the United States Court in giving a judgment to award a [fol. 2841] counsel fee which is always a reasonably substantial sum. In addition to awarding a counsel fee the successful litigant in the United States Court is entitled to costs which amount to a considerable sum; so that if a distributor were permitted under the contract to go into the United States Court to recover damages for infringement of copyright, assuming that the infringement was proved, the minimum the distributor would recover, the minimum amount would be two hundred and fifty dollars damages; and from my own experience in the United States Court in connection with the amount of counsel fee awarded, a minimum of five hundred dollars, a total of seven hundred and fifty dollars plus one hundred and fifty dollars additional as cost. I say unfortunately, although willingly, the distributors have agreed that any dispute or controversy arising with the exhibitors, must first be submitted to arbitration. They are precluded from going into the United States Court and therefore I say it is fair and reasonable for the arbitrators, in determining the amount of damages after the proof satisfies them that an infringement of copyright or bicycling has occurred, to be guided by the provision of the copyright act, which provides for not less than two hundred and fifty and not to exceed five thousand dollars for each infringement.

I am very happy that this suggestion made to the arbitration boards throughout the country has been accepted in every instance excepting one, and I am very hopeful that the members of that board under the guidance of the officers of the organization will very shortly come to see the light as the other boards of arbitration have.

[fols. 2842-2853] Switching is the same as bicycling. They are simply trade terms and I can not emphasize too strongly the determination of the distributors and the honest exhibitors cooperating with the distributors to wipe out bicycling in this country. It means more revenue to the distributor with the consequent benefit to the exhibitor and that all exhibitors are alike in the same field of fair competition. Also bear in mind that the "holding over" of a picture beyond the rental period is also an unauthorized exhibition or infringement carrying with it the same penalty for infringement of copyright.

Mr. Price: Why is it necessary to give constant attention to safety and fire prevention? To save lives; yes! to save people from being injured. Yes! to save property from burning. Yes!

All of these are important, but there are other vital reasons. Every time a fire takes place that is due to burning film, whether it is in an exchange, studio, laboratory, industrial plant, school, church, lodge or private home, it receives prominent attention in the newspapers. The headlines usually identify it as another "Movie Fire."

It is necessary in fire prevention to constantly consider the press. Because the press is justified in agitating for the prohibition of nitrate film if it is the cause of unnecessary life loss.

Were the industry forced to substitute safety motion picture film stock for that which — is now using it would virtually put the industry out of business.

[fols. 2854 & 2855] GOVERNMENT EXHIBIT 38

Complete Minutes of Meetings of the Joint Board of Arbitration, 1928, Philadelphia, Pa.

[fol. 2856] Meeting Held Friday, January 6th, 1928, of Joint Board of Arbitration, 11:00 A. M., 1337 Vine Street, Philadelphia, Pa.

Mr. S. Wittman acted as Chairman.

Case #1, Liberty Film Corp. vs. Handle & Rovner, Lyric Theatre, Camden, N. J.

Committees: Exchanges: Landow, J. Bethel, and Goodman; Exhibitors: Messrs. Pizor, Power and Goldman.

Claim: Distributor's claim was for the destruction of the two reel comedy entitled "Winnie's Vacation," which was used by the exhibitor on July 11th, 12th, and 13th, and which was destroyed on the last day used. The contract covering this subject was signed on July 8, 1926. The amount of footage destroyed was 1980 ft., for which the distributor claimed payment of $79.20. The Distributor called attention to the inspection card which showed that the print was inspected prior to its leaving their office, and which was marked "G"—Good. The distributor also showed that there had been two three day run theatres in Frankford and Lebanon, who played this picture immediately preceeding its run at the Lyric Theatre, Camden. The distributor explained that they had sent a bill of $60.00 for the two reels, to the exhibitor, but this was done to go on record, and in view of the failure of the exhibitor to pay that amount when the bill was rendered, they now asked for payment in the full amount of $79.20.

Defense: The defendant was represented by Mr. McGill, manager of the Lyric Theatre, Camden, N. J., who advised that the film was received in bad condition, and introduced as evidence, a small sample piece of film, which sprockets were ripped and torn. The exhibitor contended that when they received the film, the operator examined same, and found that it was in very poor condition, and immediately telephoned to the exchange for another print, but was advised that there was no other print available. The operator was present, and testified to the fact that he telephoned to the exchange, and asked to talk to the booker, and assumed that he was talking to the booker at the time. The exhibitor introduced affidavits signed by Alexander Fell, the operator of the theatre, testifying to the fact that he had telephoned to the exchange to request another print of the two reel comedy "Winnie's Vacation," and that the condition of the print was the cause of the fire, which destroyed same. Another affidavit was introduced as evidence, signed by Miss Lillian Lewis, the bookkeeper for Handle & Royner, in which she testified that she heard Mr. Alexander Fell, the operator of the theatre, telephone regarding the condition of the print "Winnie's Vacation."

Decision: That the exhibitor pay to the distributor within seven days from the date thereof, the sum of $60.00 for bill rendered for the two reel comedy "Winnie's Vacation",

the print of which was destroyed by the exhibitor on July 13, 1927. Upon the failure of the exhibitor to fully comply [fol. 2857] with this award within seven days from the date thereof, the sum of five hundred dollars is hereby fixed as the maximum amount which each distributor, a member of the Film Board of Trade of Philadelphia, having contracts with the exhibitor, may demand pursuant to the provision of the arbitration clause contained therein, as security for the performance by the exhibitor, of each such contract.

Case #2, Pathe Exchange, Inc., vs. Peter Walsh, who formerly operated the Grand Theatre, Centralia, Pa.

Committees: Exhibitors: Messrs. Lessy, Power and Goldman; Exchanges: Messrs. Landow, Bethel and Goodman.

Claim: The distributor's claim was for $242.50, this being the uncompleted portion of contracts dated March 21, 1927, on which twenty-three pictures remained unplayed. Mr. Peter Walsh, who formerly operated this theatre, disposed of said theatre without making any provision for the completion of these contracts, and the distributor, therefore, asked for judgment in the full amount of their claim.

Defense: The defendant was not present.

Decision: That Mr. Walsh be required to pay to the plaintiff within seven days from the date thereof, the sum of $242.50, covering the unplayed portion of the contracts existing between these parties, dated March 21, 1927.

Case #3, F. B. O. Pictures Corp., vs. Stanley-Effinger Co., 69th Street Theatre, Philadelphia

Committees: The same as in Case #2.

Claim: The Distributor advised that under date of July 8, 1926, the exhibitor signed contract for 12 Whirlwind Comedies, of which they played 3. They then signed a subsequent contract for Standard Comedies, to replace the 9 comedies remaining unplayed on the Whirlwind contract under date of May 6, 1927. Two of the 9 comedies had been played, and 7 remained unplayed. The distributor had received dates on 4 of the pictures from the exhibitor, which were confirmed on Oct. 13, 1927. Two of the 4 pictures were played, and the other 2 refused. The pictures refused were as follows:—Nov. 7th, 8th and 9th, "Heavy-

ation", $35.00. Nov. 28th, 29th, and 30th, "Unsocial Three", $35.00. Distributor made claim for the amount of $70.00, covering the rental of the pictures refused, and asked that the contract be completed.

Defense: Defendant was not present.

Decision: That the exhibitor be required to pay to the distributor within seven days from the date thereof, the sum of $70.00, covering the rental of those pictures which were booked in accordance with the terms of the contract, and the acceptance thereof refused. It is further decided that the exhibitor shall be required to play or pay for the balance [fol. 2858] of the comedies on contract, dated May 6, 1927, at the rate of one comedy every other week, starting Feb. 1, 1928. Upon the failure of the exhibitor to fully comply with this award within 7 days from the date thereof, the sum of $500 is hereby fixed as the maximum amount which each distributor, a member of the Film Board of Trade of Philadelphia, having contracts with the exhibitor, may demand pursuant to the provision of the arbitration clause contained therein, as security for the performance by the exhibitor of each such contract.

Case #4, F. O. B. Pictures Corp., vs. Louis Griner, Grand Theatre, Cape May Court House, N. J.

Committees: Exhibitors: Messrs Lessy, Power and Axler; Exchanges: Messrs. Landow, Bethel, and Goodman.

Claim: The claim was based on a contract signed by Mr. Louis Griner on April 14, 1927, for 20 pictures, of which none had been played to date. The contract carried with it, a playing arrangement of two or three pictures per month, starting Aug. 1, 1927. Dates had been requested by the Exchange on Aug. 13th, and Sept. 15th, and failing to receive same on Oct. 11th, they notified the exhibitor by registered mail of the setting of dates at the rate of one each week, beginning Oct. 26th. Since that time, ten pictures had been refused, and the distributor, therefore, claimed payment of the amount of $100.00 covering the rental of the the ten pictures refused, and also that the contract be completed in accordance with its terms.

Defense: The defendant was not present, but had written a letter to the Board, advising that he was unable to be present, and that, due to poor business, he had been com-

pelled to close his theatre on Mondays and Tuesdays of each week, and that he had been endeavoring to apportion his dates with the different exchanges with whom he had contracts, and that he had offered to the F. B. O. Exchange one date every three weeks, which they had refused to accept, and that if this was not satisfactory, the exhibitor was willing to agree to any arrangement which might be effected by the Board of Arbitration.

Decision: That the exhibitor pay to the distributor within 7 days from the date thereof, the sum of $100.00, covering the rental of 10 pictures dated one each week, from Oct. 26th to Dec. 28th, inclusive, all of which were dated in accordance with the terms of the contract dated April 14, 1927, and acceptance thereof refused. Payment of this amount will allow the exhibitor the privilege of playing the ten pictures at any future time, without further charge. It is further decided that the exhibitor shall be required to complete the contract by playing or paying for the balance of the pictures, at the rate of one picture every three weeks, beginning Feb. 1, 1928. Upon the failure of the exhibitor to fully comply with this award within 7 days from the date thereof, the sum of $150.00 is hereby fixed as the maximum amount which each distributor, a member of the Film Board [fol. 2859] of Trade of Philadelphia, having contracts with the exhibitor, may demand pursuant to the provision of the arbitration clause contained therein as security for the performance by the exhibitor, of each such contract.

Case #5, Pathe Exchange, Inc., vs. H. Colmer, Colonial Theatre, Beach Haven, N. J.

Committees: Exhibitors: Messrs. Price, Power and Axler, Exchanges: Messrs. Landow, Bethel, and Goodman.

Claim: This claim was based on a contract signed by Harry Colmer on Oct. 11, 1927, for 26 two reel comedies, of which 13 had been played to date. The exhibitor had submitted to the exchange, play dates on three comedies, which were properly confirmed but the pictures had been refused, and the distributor, therefore, made claim for payment in the amount of $17.41, $16.00 of which was for film rental of the three comedies, and $1.41 for parcel post charges.

Defense: Exhibitor was not present.

Decision: That the exhibitor be required to pay to the distributor within 7 days from the date thereof, the sum

of $17.41, covering the distributor's claim for three comedies refused in accordance with the terms of the contract, plus $1.41 postage. Upon the failure of the exhibitor to fully comply with this award within 7 days from the date thereof, the sum of $150.00 is hereby fixed as the maximum amount which each distributor, a member of the Film Board of Trade of Philadelphia, having contracts with the exhibitor, may demand pursuant to the provision of the arbitration clause contained therein, as security for the performance by the exhibitor of each such contract.

Case #6, Masterpiece Film Attractions vs. Mr. H. Delahunty, Highland Theatre, Audubon, N. J.

Committees: Same as in Case #5

The distributor was unable to produce a contract on which this claim was based, and the Board, therefore, would not consider the claim, and dismissed same.

The following cases were reported settled:

Fox Film Corp., vs. McTague Theatre, Coaldale, Pa.
Fox Film Corp., vs. Crystal Theatre, Miners Mills, Pa.
First National vs. Diamond Theatre, Wilkes-Barre, Pa.
First National vs. Garden Theatre, Buttonwood, Pa.
First National vs. Palace Theatre, Warrior Run, Pa.
Pathe Exchange vs. Broad St. Theatre, Harrisburg, Pa.
Columbia Pictures vs. Bijou Theatre, Phila.
Liberty Film Corp. vs. Star Theatre, Camden, N. J.
W. Allegheny Theatre vs. Pathe Exchange, Inc.
Lehigh Theatre vs. Pathe Exchange, Inc.

Respectfully submitted.
JG.D.

[fol. 2860] Minutes of the Joint Board of Arbitration Meeting held Friday, January 13th, 1928, 1337 Vine Street, Philadelphia

S. Wittman acted as Chairman.

1. Fox ex. vs. L. Headley, Seaside Theatre, Somers Pt., N. J.

Committees: Exchanges: Korson, Quinleven, Neufeld; Exhibitors: Geo. Kline, Goldman, Power.

Exhibitor not present.

Claim: Contracts were dated July 21, October 30, December 23, 1926, and April 21, 1927. Contracts were assumed by J. L. Headley covering 50 features, 52 comedies, 208 News Reels. There were played at the theatre 34 features, 29 comedies and 91 News Reels. Pictures unplayed 16 features, 23 comedies, and 117 News Reels. The house was closed in December and no provisions made for the unplayed balance of the contracts amounting in value to $537.90.

Decision: That the exhibitor pay to the Exchange within seven days from date $537.90, value of unplayed portion of contracts.

2. Pathe ex. vs. S. L. Patterson, Shadowland Theatre, Landisburg

Committees: Exchanges: Korson, Blofson, Neufeld; Exhibitors: Geo. Kline, Goldman, Power.

Claim: Contract dated Oct. 13, 1926, for a standing order for Pathe News. Contract provides that unless exhibitor gives notice of 30 days' prior to expiration date of contract that contract would automatically renew itself. The exhibitor started playing December 18, 1926, failed to give notice 30 days, prior to December 18, 1927. He had failed to lift 7 on the 1926 contract, amounting to $14.00 and 5 on the new contract 1927, amounting to $10.00.

Decision: That the exhibitor pay for the News Reels which he failed to lift amounting to $24.00 and that he complete the balance of the contract in accordance with the terms of the contract, and upon the failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $50.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

3. D. E. Hickman, Royal Theatre, Nazareth, Pa., vs. Fox ex.

Committees: Same as Case #2.

Mr. Heckman present.

[fol. 2861] Claim: Exhibitor had contract with the Exchange dated 6 19 26 for a number of pictures, included among which was the production Seventh Heaven. The contract as approved by the Exchange was silent on question of protection or any run. The exhibitor produced a work sheet which showed that the pictures were being bought first run in town. It further appeared that the Exchange permitted the Broad Street Theatre, Nazareth, which also had a contract and which was silent as to run, to play Seventh Heaven ahead of Royal.

The claim of the Royal was $500.00, based on 550 seats to be played for two days at an admission charge of 25c. The exhibitor showed that when he played What Price Glory, a picture of similar box office value, he took in over $400.00. It further appeared that before a play date was given to the Broad Street Theatre, that the exhibitor was not notified to put in his play date.

Defense: That there was nothing in the office which would show the booker that the Royal was to play first-run, and further, that the Broad Street came in, ahead of the Royal and gave in the date; that there was nothing complained of by the Royal until one day before the Broad Street was to show the picture. Furthermore, the Exchange rested solely upon the contract which failed to show that the exhibitor had first run.

Decision: In view of the unethical handling of the situation on Seventh Heaven by the Exchange, that this Board awards to the exhibitor $250.00 damages to be paid within seven days and that the playing of the picture be optional with the exhibitor.

4. Masterpiece ex. vs. John Marinos, Palace, Warrior Run, Pa.

Committee: Exchanges: Neufeld, Blofson; Exhibitors: Goldman, Pizor.

Exhibitor not present.

Claim: Contract signed Nov. 19, 1927, for a number of pictures. The picture Border of Vengeance was sent to the exhibitor for play date and the exhibitor refused to lift

it. The exhibitor wrote a letter in defence stating that this picture had played the theatre while the former owner was operating the theatre and that he had asked the exchange to substitute a different picture for Border of Vengeance and the Exchange neglected to do so.

Decision: That the Masterpiece substitute a picture for Border of Vengeance of the same character and rental value and that the exhibitor play and pay for the substituted picture within six weeks from the date hereof.

Case of De Luxe vs. Harner Theatre, New Holland, Pa., withdrawn.

—— ——, Secretary.

GPA:ASH.

[fol. 2862] Minutes of Meeting of the Joint Board of Arbitration Held Friday, January 20th, 1928, at 11:00 A. M., 1337 Vine St., Phila.

Mr. Oscar Neufeld acted as Chairman.

Case #1, Pathe ex. vs. A. E. Fridrich, Liberty, Camden, N. J.

Committees: Exchanges: Zagrons, Goodman, Landau; Exhibitors: Goldman, Pizor, Power.

The exhibitor was present with his counsel Mr. Smith. After presentation of the Plaintiff's case and introduction of the Defendant's defense, the Board having deliberated and having failed to reach a majority or unanimous decision, the Board then appointed Messrs. Pizor and Landau to endeavor to secure the services of Max Aron, Esquire, as a seventh arbitrator and the parties in litigation to be notified as to the time and place of the hearing. The hearing before the seventh arbitrator to be appointed, will be a hearing wherein the entire matter will be re-opened. The complaint introduced and the defense introduced.

Case #2, Fox ex. vs. S. Stiefel, Elite Theatre, Philadlphia

Mr. Landau now acting as Chairman.

Committees: Exchanges: McFadden, Humphreys, Goodman; Exhibitors: Goldman, R. Schwartz, Power.

Exhibitor was not present nor represented.

Claim: Contract dated August 6th, 1927. Contract was signed was Samuel H. Stiefel, on behalf of the Stanley-Stiefel Corp. covering five John Gilbert re-issues. Exhibitor played one and left four unplayed. The Picture in question Honor First on October 24, 1927, the exhibitor gave the date to play the picture December 5th and 6th, and the exhibitor failed to exhibit or pay for the picture, which amounted to $40.00.

Decision: The decision of the Board was that the exhibitor must pay within seven days from date to the Exchange $40.00, the value of Honor First which he failed to pick up and exhibit, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, De Luxe Ex. vs. L. Headley Seaside Theatre, Somers Pt. N. J.

Committees: The same as in Case #2.

Claim: Contract was signed February 24, 1927 for 20 pictures to start June 1, 1927, at the rate of one a week [fol. 2863] until the contract was completed. On June 13, 1927, was assumed in writing by Mr. Headley. The theatre was closed on or about December 1, 1927, leaving unplayed eight Rayart Pictures and twelve Gotham Pictures, the total rental value being $200.00.

Decision: The decision of this Board was that the Exhibitor should pay within seven days from date $200.00 to the Exchange, being the value of the contract.

Case #4, United Artists Corp. vs. D. Raybuck, O. H., Tremont, Pa.

Committees: The same as in Case #3.

Claim: Contract was signed November 22, 1927, for seven pictures, none of which were played. Contract pro-

vided to be played or paid for within ninety days from date of contract. The contract was approved November 4th. On November 7th, the theatre was closed by order of the State for failure to install emergency lighting system and through failure to abide by other regulations. The value of the pictures is $120.00. The theatre has since November 7th, 1927, remained closed.

Decision: It was the decision of this Board that the exhibitor should pay to the Exchange within seven days from date $120.00, the value of the contract.

Case #5, F. B. O. vs. C. E. Buell, Opera House, Red Lion, Pa.

Committees: Exchanges: Quinleven, Humphreys, Goodman; Exhibitors: Goldman, R. Schwartz, Power.

Exhibitor was not present.

Claim: Contract was signed by C. E. Buell, October 19, 1927, for ten pictures, five of which were played and five remained unplayed, and the second contract dated October 6, 1927, for 56 pictures, seven of which were played, leaving 49 remaining unplayed. These contracts covered both features and comedies. Contract also provided to play at the rate of one picture each week. Exhibitor failed to pick up the following subjects on the following dates:

Dec. 6 Border Whirlwind	$12.50
Dec. 8 Bill Grimms #2	5.00
Dec. 8 Moment of Temptation	12.50
Dec. 15 Bill Grimms #3	5.00
Dec. 16 Is That Nice	12.50
Dec. 22 Bill Grimms #4	5.00
Dec. 23 Cactus Trails	12.50
Jan. 12/28 Bill Grimms #5	5.00
Jan. 15 Bred in Old Kentucky	12.50
Jan. 22 Adorable Deceiver	12.50
Total	$95.00

Decision: The decision of this Board was that the exhibi- [fol. 2864] tor should pay $95.00 within seven days from date to the Exchange, representing rental of pictures refused, and also that the exhibitor complete the contract in accordance with the terms of the contract.

The following cases were marked settled or withdrawn:
F. B. O. vs. M. John Smith, Liberty Theatre, Philadelphia.
Liberty Exchange vs. D. Hirsh, Forrest Theatre, Philadelphia.
Pathe vs. Zatkin, Standard Theatre, Camden, N. J.
Masterpiece vs. Fetsko, Peerless, Allentown, Pa.
The following cases postponed to Jan. 17, 1928.
Pathe vs. I. Krohn, Roxy Theatre, Easton.
Liberty Exchange vs. S. W. Young, Elm Theatre, Camden, N. J.
Fox Ex. vs. L. Berman, Savoy Theatre, Bethlehem, postponed to Feb. 3rd, 1928.

Respectfully submitted, Geo. P. Aarons, Secretary.
Joint Board of Arbitration.

GPA:ASH

[fol. 2865] January 27, 1928.

Meeting of the Joint Board of Arbitration was held on the above date at 11.00 A. M., 1337 Vine Street, Philadelphia.

Mr. Oscar Neufeld acting as Chairman.

Case #1, Pathe Ex. vs. I. Krohn, Roxy Theatre, Easton, Pa.

Committees: Exchanges, Goodman, Blofson, Landau; Exhibitors, Perlin, Pizor, Power.

Exhibitor was present.

Claim: $49.00 on contract dated November 21, 1927, signed by Harry Smith for 168 pictures, none having been played. Playing arrangement Fables and Topics of the Day booked standing order one each week. Exhibitor refused to recognize the contract on the ground that Harry Smith did not have the authority from the Roxy Theatre Corporation to enter into said contract, unless contracts be approved by I. Krohn, President of the Corporation.

It appears that there were other contracts with Exchanges that had been signed by Harry Smith and had been approved by I. Krohn either by written or verbal notice. There were seven issues of Topics of the Day

which had been assigned and not lifted to the amount of $21.00. Six issues of Aesops Fables to the amount of $18.00 and one Our Gang Comedy, Bringing Home the Turkey, $10.00.

Decision: That the exhibitor pay to the Exchange within seven days from date $49.00 for the pictures which he did not pick up, and that he complete the balance of the contract in accordance with the terms of the contract, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Pathe Ex. vs. A. Fredrich, Liberty Theatre, Camden, N. J.

Committee: Exchanges, Zagrons, Goodman, Landau; Exhibitors, Goldman, Pizor and Power; Max Aron, Esquire, as the seventh arbitrator, to decide the issue.

This case was brought before the Board on January 20th, 1928, and as a result of a tie-vote, it was submitted to Mr. Aron.

The contract was dated March 9, 1927, approved March 21, 1927. March 29, 1927, the exhibitor sent a registered letter to the Exchange cancelling the contract on the [fol. 2866] grounds that the contract as approved was not in accordance with the application submitted by him under date of March 9th. It appears that the exhibitor had a contract for comedies in 1926 which had not expired at the time the contract on March 9, 1927, had been entered into, but from March 9, 1927 to October 26, 1927, the exhibitor had played 28 comedies covered by the contract in dispute. The last picture played on the 1926 contract was July 16, 1927, which completed the old contract. The first picture played on the new contract was May 14, 1927.

The exhibitor was present and represented by S. Smith, his Attorney, pointed out that the question on the new contract did not arise until after September, when he had received the availability notice from the Exchange of a lot of pictures, and he further stated that the comedies played by him during 1927 were comedies which he believed still to be on the 1926 contract and that he did not know that he was playing 1927 comedies, and at the most that the comedies played by him were included in the contract of March 9, 1927. There were comedies furnished by the Exchange without reference to the contract, which he alleged was not in a valid contract.

Upon conclusion of all the evidence, the Board went into a deliberation of the matter under the guidance of the seventh arbitrator, Mr. Aron, and concluded that the contract dated March 9th, 1927, which was cancelled by the exhibitor, such cancellation would be good if nothing further had been done, but it was shown that subsequently the exhibitor had ordered approximately 33⅓ of the pictures covered by the contract; had booked, played and paid for them. That the facts indicated that he knew the comedies that he so played were under the contract in question and that he played them with knowledge of the same.

The Board then made the following decision—that under all the facts of the case, that the contract is a good and valid contract; that the exhibitor must pay $22.50, representing the comedies which he did not lift and which had been dated, and that he complete the balance of the contract of March 9, 1927, as approved March 21, 1927, in accordance with the terms of the said contract, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, H. Axler, Bellevue Theatre, Phila. vs. Masterpiece Ex.

Mr. J. H. Greenberg acted as Secretary in this case.

H. Axler, Bellevue Theatre, Phila. vs. Masterpiece Film Attractions.

[fol. 2867] Committee: Exchanges Quinlivan, Zagrans & Landow; Exhibitors, Power, R. Schwartz & Forscher.

The exhibitor had three claims based on contracts signed on June 29, 1927, numbered F59, F60, and F61.

Claim #1 was for the cancellation of contract F59, which contract called for 30 pictures, for the reason that the exchange permitted the picture "Lady Bird" to play the Wishart Theatre on Dec. 28, 1927, and that the picture "Polly of the Movies," and "Return of Boston Blackie" was played at the Aurora Theatre on Jan. 4th and Jan. 7th respectively, prior to the exhibition of these pictures at the Bellevue Theatre. The contract contained a clause providing for protection against both the Eishart and the Aurora Theatres. The exhibitor contended that the contract had been breached, and asked for a cancellation thereof.

Defense on Claim #1. The distributor admitted that the picture "Lady Bird" and "Polly of the Movies" had played the Wishart and Aurora Theatres respectively, but denied that the "Return of Boston Blackie" had played the Aurora Theatre, as this picture had been withdrawn in time. The distributor claimed that the playing of these pictures at the above mentioned theatres was due to an error in the Booking Department, and they had not realized their error until it was called to their attention.

Claim #2. This contract, F60, was for one picture "Shadows," which the exhibitor claimed was sold to him by Dave Korson, and that at the time the sale was made, he was told that it had not played in the neighborhood in which the Bellevue Theatre is located, for six or seven years prior to the date of the contract. It was subsequently found that the picture "Shadows" had been played by the Majestic Theatre in February of 1927, which was about five or six months prior to the signing of this contract, and had the exhibitor then known that it had played in the

neighborhood, he would not have purchased the picture. Believing this to be first run in the neighborhood, the exhibitor had advertised the picture very extensively, and had played same on Friday and Saturday, Dec. 30th and 31st. Exhibitor produced box office statement to show that he had taken in on Friday, Dec. 30th, $125.00, and Saturday, Dec. 31st, $182.00. Exhibitor also produced box office statements on other Lon Chaney pictures, which he had played on Friday and Saturday, from which it was noted that there was quite a difference in the receipts, and the exhibitor, therefore, made claim for $300.00 as damages for misrepresentation in this product.

Defense on Claim #2. The distributor advised that to his knowledge, there had been no understanding between the salesman *th*d the exhibitor, that the picture had not [fol. 2868] played in the neighborhood for six or seven years. They contended that while the print was in their exchange, it was in unfit running condition, and they had no record of having booked same to any exhibitor for the past two years, but it was possible that the Majestic Theatre might have played the picture in February, as contended, when he may have received same on a gratis basis, as an adjustment. However, the picture was not released by them as a reissue until July 1927, and it was sold to the exhibitor with the express understanding that it was a reissue, and the contract was marked that way.

Claim #3. This was on a contract calling for three Clara Bow pictures, contract F61. The exhibitor claimed $300.00 as damages for misrepresentation that the pictures were sold to him, and represented as having Clara Bow appear in said pictures as the star. On Jan. 6, 1928, the exhibitor played the picture "My Lady's Lips," and it was found that Alyce Mills was starred in the picture, and that Clara Bow appeared as a very unimportant character, and only appeared in the first and last reels. The exhibitor had advertised this picture very extensively, putting out 6000 programs, extra supply of one sheets, circulars, &c. That when the picture was exhibited, the patrons of the theatre criticized the exhibitor for misrepresenting the picture as having Clara Bow appear as a star, when she did not appear as such star, and that the exhibitor, therefore, suf-

fered damages by the business falling off materially thereafter.

Defense on Claim #3. The distributor denied that the pictures had been represented as having Clara Bow featured as a star therein, but that she was merely featured as one of the cast. The distributor advised that this was the way the pictures were sold to them by the producer, and they were not responsible for the failure of the picture to live up to expectations.

Decision:

Claim #1. That the Distributor pay to the exhibitor within seven days from the date hereof, the sum of one hundred dollars, as damages for breach of contract in permitting the picture "Lady Bird" to play the Wishart Theatre prior to the exhibitor's theatre, and in permitting the picture "Polly of the Movies," to play the Aurora Theatre prior to the exhibitor's theatre, both of these exhibitions being contrary to the terms of the contract in question. It is further decided that the exhibitor shall receive the two pictures above mentioned, gratis, if he desires to play same, and if it can be proven that the picture, "The Return of Boston Blackie", was played by the Aurora Theatre on Jan. 7th, then the exhibitor shall receive this picture gratis, if he desires to play same.

Claim #2. That the claim for damages on the picture "Shadows" is disallowed.

[fol. 2869] Claim #3. That the distributor shall refund to the exhibitor within seven days from the date hereof, the sum of sixty dollars, covering the rental paid for the picture "My Lady's Lips."

[fol. 2870] The following cases were continued until Friday, February 3rd.

Universal Ex. vs. Bijou Theatre, Milton, Pa.

Universal Ex. vs. Colonial Theatre, Haddonfield, N. J.

B. H. Harrison formerly of Victoria, Westville, N. J., vs. United Artists.

Fox Ex. vs. Savoy, Bethlehem, Pa.

F. B. O. vs. Crescent, 84th and Eastwick Ave., Phila.

Masterpiece.

The following cases were reported settled:

Masterpiece Ex. vs. Broadway, Wilmington, Del.
Universal Ex. vs. Riverside Theatre, Bristol, Pa.
Two cases of F. B. O. vs. Elite Theatre, 27th & Girard Ave., Phila.
De Luxe Ex. vs. Segall's Castle Theatre.
Pathe Ex. vs. Orpheum, East Mauch Chunk, Pa.
Liberty Ex. vs. Elm Theatre, Camden, N. J.

Case #4, Fox Ex. vs. J. Marinos, Palace Theatre, Warrior Run, Pa.

Committees: Exchanges, McFadden, Goodman, Landau; Exhibitors, R. Schwartz, Perlin, Power.

Mr. Pizor acted as Chairman.

Claim: Contracts dated 9 25 26 and March 3, 1927, signed by the former owner and assumed by assignment on July 7, 1927, by John Marinos, covering 50 features and 52 comedies. 45 features and 46 comedies played; five features remaining and six comedies. Playing arrangement one per week on features and comedies. Exhibitor refused to lift comedies on December 24th, in amount of $6.45, December 31st, $6.45, advertising costs $1.15, January 7th, 1928, $6.45, January 14th, feature $15.72 and a comedy $6.45, and telegram cost of 30c, making a total of $60.14, which included a feature on January 21st, in amount of $10.72. It further appeared that the exhibitor had booked Ankles Preferred for December 31st and January 2d, picture should have been returned to the Exchange not later than January 4th, and was not returned until January 7th.

Claim of $200.00 is made for the three days unauthorized use or holding out of the picture.

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days $60.14, for the pictures in question which he left lay, and damages of $200.00 covering feature which he returned three days later, and that he complete the balance of the contract in accordance with the terms of the contract, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the

exhibitor has any contract, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in purcuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 2871] Listed Minutes of the Joint Board of Arbitration Meeting Held Friday, February 3rd, 1928, at 1337 Vine Street, Philadelphia, Pa., at 11:00 A. M.

Mr. S. Wittman acted as Chairman.

Case #1, F. B. O. vs. Elite Theatre, 27th and Girard Ave., Phila., Pa.

Committees: Exchanges, Heenon, Neufeld, Quinleven; Exhibitors, Power, Goldman, Schwartz.

Claim: Contracts dated August 3, 1927 and August 24, 1927, signed by Stanley-Stiefel Company per Samuel Stiefel, covering 30 features, 24 two reelers, and 52 cartoons, upon which had been played three features, 15 two reelers and four cartoons, leaving unplayed 27 features, 9 two reelers and 48 cartoons. Last pictures played December 26-27 for features, October 19-20 for two reelers and December 9-10 for cartoons. Playing arrangement: To be played one or more per week as soon as available. Exchange requested numerous dates and dates were set by the Exchange October 1st and December 9th, 1927 for the following pictures:

Great Mail Robbery, December 26-27, 1927	$100.00
Old Tin Sides, December 26-27, 1927	7.50
Chicken Chaser, December 26-27, 1927	3.00
Gingham Girl, January 2-3, 1928	90.00
You're Next, January 2-3, 1928	7.50
Alice's Monkey Business, January 2-3, 1928	3.00
Not For Publication, January 9-10, 1928	50.00
Heavy Hikers, January 9-10, 1928	7.50
Cheese It, January 9-10, 1928	3.00
Total	$271.50

These pictures were not lifted by the exhibitor.

Exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date of meeting $271.50, the amount of the pictures refused by the exhibitor and that the exhibitor go through with the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the sum of not more than $250.00 has been fixed as the maximum amount to be placed with each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade as security for the faithful performance by the exhibitor of such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Universal Exchange vs. Bijou Theatre, Milton, Penna.

Mr. Pizor acted as Chairman in this case.

Committees: Same as in Case #1.

Claim: Contract was signed April 30, 1926, by Pete Pappas for 52 pictures, 46 of which were played, leaving six unplayed. The date of the last picture was Jan. 11, 1926. Playing arrangement was one picture per week. Exchange [fol. 2872] requested numerous dates. Exhibitor failed to date or pick up the following pictures which were set by the Exchange:

Jan. 2, 1928.	Fighting Three	$25.00
	Parcel Post Charge	.65
	C. O. D. Charge	.15
Jan. 4, 1928.	P. P. on refusal	.50
Jan. 8, 1928.	Hero on Horseback	30.00
" 16, 1928.	Beware of Widows	25.00
" 23, 1928.	Bridge of the Devil	25.00
" 30, 1928.	Range, etc.	15.00
Feb. 5, 1928.	Hard Fists	15.00
	Total	$136.30

Exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $136.30, total amount of pictures which exhibitor failed to pick up and upon failure of the exhibitor to comply with the decision of the Board, then the sum of not more than $250.00 as the maximum amount has been fixed to be deposited with each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade, as security for the faithful performance by the exhibitor of such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Universal Exchange vs. Colonial Theatre, Haddonfield, N. J.

Mr. Pizor acted as Chairman.

Committees: Exchanges, Heenon, Neufeld, Quinleven; Exhibitors, Axler, Goldman, Schwartz.

Claim: Contracts were signed Sept. 10, 1927, and January 20 1927, by Frank H. Karpinski covering 237 pictures, 65 of which had been played, leaving 172 unplayed. The exhibitor closed the theatre on or about December 1, 1927, without making any provision for the unplayed portion of the contract, amounting to $948.00.

The exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $948.00 covering unplayed portion of contracts.

Case #4, Universal Ex. vs. L. Headley, Seaside Theatre, Somers Point, N. J.

Committee: Same as case #3.

Claim: There were numerous contracts providing for "Standing Order Contracts."

Exhibitor was not present.

The exhibitor closed his theatre without making provision for the unplayed portion of the contracts, amounting to $1251.00.

Decision: That the exhibitor pay to the Exchange within seven days from date $1251.00 covering unplayed portion of contracts.

[fol. 2873] Case #5, F. B. O. vs. Crescent Theatre, (H. Schleifer), 84th & Eastwick Ave., Phila., Pa.

Mr. Wittman acted as Chairman.

Committees: Exchanges, Heenon, Neufeld, Quinleven; Exhibitors, Axler, Goldman, Power.

Claim: Contract dated January 26, 1926, upon which were 46 pictures, 45 had been played leaving one unplayed Going the Limit. Rental value was $10.00. The last picture played was Sept. 13, 1927. The exhibitor had dated the picture for August 23, 1927, and failed to play or pay for it.

Exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $10.00 covering the unplayed picture Going the Limit, and upon failure to comply with the decision of the Board, then the sum of $150.00 has been fixed as the maximum amount to be deposited with each distributor member of the Philadelphia Film Board of Trade with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade, as security for the faithful performance by the exhibitor of such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, United Artists Corp. vs. C. E. Buell, Opera House, Red Lion, Penna.

Committee: The same as in Case #5.

Claim: Five individual contracts in question, dated Nov. 14, 1927. Five pictures were covered by the contracts and dated by the exhibitor, which the exhibitor failed to pick up according to his dates and new dates were set in by the Exchange.

Dec. 17, 1927.	Tailor Made Man	$17.50
	Parcel Post	2.42
" 24, 1927.	Waking Up the Town	17.50
" 31, 1927.	The Girl I Love	17.50
Jan. 14, 1928.	The Only Way	17.50
" 23, 1928.	Rosita	30.00
	Total	**$102.42**

None of the above pictures has been played by the exhibitor. Exhibitor was not present.

Decision: That the exhibitor pay within seven days to the Exchange $102.42 covering the pictures which the exhibitor failed to pick up and upon failure of the exhibitor to comply with the decision of the Board then the sum of $250.00 has been fixed as the maximum amount *amount* to be deposited with each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade, as security for the faithful performance by the exhibitor of such contracts as held with the members of the Philadelphia Film Board of Trade.

Case #7, United Artists Corp. vs. Mr. McFadden, Lyric Theatre, Kulpmont, Pa.

Committees: Exchanges, Heenon, Neufeld, Quinleven, Axler, Perlin, Power.

Claim: Five contracts dated Oct. 6, 1927, for five pic- [fol. 2874] tures, none of which had been played or paid for by the exhibitor. The playing arrangement was that the pictures were to be played or paid for by February 1st, 1928. Numerous dates were requested and the Exchange set in the dates.

Jan. 2, 1928.	Resurrection	$20.00
	Parcel Post	2.53
Jan. 9, 1928.	Beloved Rogue	20.00
	Parcel Post	2.51
Jan. 16, 1928.	Stella Dallas	15.00
" 23, 1928.	Winning of Barbara Worth	15.00
" 28, 1928.	Night of Love	17.50
	Total	$92.54

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $92.54, representing the pictures which he failed to play, and upon failure of the exhibitor to comply with the decision of the Board, then the sum of

$150.00 has been fixed as the maximum amount to be deposited with each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade as security for the faithful performance by the exhibitor of such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #8, United Artists Corp. vs. Michael Dubrawsky, Palace Theatre, Sheppton, Pa.

Committees: Same as Case #7.

Claim: Contracts dated July 27, 1927, signed by Michael Dubrawsky, three contracts for three pictures. Playing arrangement to be played or paid for by December 20, 1927. Dates were requested several times and the Exchange set the dates in on November 16, 1927, for the three pictures. The pictures were refused by the exhibitor:

Dec. 5, 1927.	Stella Dallas	$15.00
" 6, 1927.	The General	10.00
	Parcel Post	1.02
" 7, 1927.	Love of Sunya	15.00
	Parcel Post	.92
	Total	$41.61

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days $41.61, representing the three pictures, plus parcel post, refused by him, and upon failure of the exhibitor to comply with the decision of the Board, then the sum of $150.00 has been fixed as the maximum amount to be deposited with each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade as security for the faithful performance by the exhibitor of his contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 2875] Case #9, Liberty Film Co. vs. Independent Theatres Co. operating the Savoy Theatre, Bethlehem, Pa.

Committees: Exchanges, Heenon, Neufeld, Quinleven; Exhibitors, Goldman, Perlin, Power.

Claim: Contract signed Sept. 7, 1926, for 14 pictures, 5 pictures were played, 9 pictures unplayed. Date of last picture May 23-25, 1927. Playing arrangement: As released. Numerous dates were requested and then dates were set in by the Exchange on December 8, 1927, on the following pictures, which were refused by the exhibitor:

Jan.	2- 4, 1928. Everybody's Doing It	$6.00
"	9-10, 1928. Oh Pal, etc	6.00
"	16-18, 1928. My Wife, etc	6.00
"	23-25, 1928. That Tumble, etc	6.00
"	30, Feb. 1. Call Me Up, etc.	6.00
	Total	$30.00

The claim also was for the balance of the pictures to be played or paid for as they become due.

Exhibitor was not present.

Decision: That the exhibitor pay $30.00 to the Exchange within seven days from date for the pictures dated and left unplayed and the exhibitor to complete the balance of the contract as the pictures become due, and upon his failure to comply with the decision of the Board, then the sum of $500.00 has been fixed as the maximum amount to be deposited with each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade, as security for the faithful performance by the exhibitor of all contracts as held by the members of the Philadelphia Film Board of Trade.

Case #10, Fox Film Ex. vs. Elite Theatre, 27th & Girard Ave., Phila., Pa.

Committees the same as in case #9.

Claim: Covering the production Blood Will Tell, which was used by the exhibitor on December 26, 1927, and was

shipped out in good condition. It was received by the Exchange in a damaged condition and the cost of replacement of the damaged parts amounted to $48.00.

The Exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $48.00 covering the damaged film and upon his failure to comply with the decision of the Board, then the sum of $250.00 has been fixed as the maximum amount to be deposited with each distributor member of the Philadelphia Film Board of Trade, which distributor may demand in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, as security for the faithful performance by the exhibitor of all contracts as held by the members of the Philadelphia Film Board of Trade with such exhibitor.

Case #11, Columbia Pictures vs. Highland Theatre, Audubon, New Jersey

[fol. 2876] Committees: Same as in case #10.

Claim: Contract was dated May 31, 1927, signed by E. P. Delahunty for 60 pictures, 19 of which were played, leaving remaining 41. The last picture played was January 5, 1928. Playing arrangement—To be played as available. The following pictures were refused by the exhibitor:

Dec. 30, 1927.	Alias, etc	$50.00
" 28, 1927.	Screen Snapshots #24	2.00
Jan. 4, 1928.	The Clown	25.00
" 4, 1928.	Screen Snapshots #25	2.00
	Total	$79.00

And the claim further was for the exhibitor to play or pay for the balance of the pictures in accordance with the contract.

Decision: That the exhibitor pay to the Exchange within seven days from date $79.00 for the pictures left unplayed and that he complete the balance of the contract in accordance with the terms thereof, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of

Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were settled or withdrawn:

F. B. O. vs. Garden, Buttonwood, Pa.
F. B. O. vs. Palace, Warrior Run, Pa.
United Artists Corp. vs. Keystone Theatre, Weatherly, Pa.
20th Century vs. Orient Theatre, Phila.
Dixie Theatre, Phila., vs. Fox Film Corp.
First National Ex. vs. Garden, Buttonwood, Pa.
First National Ex. vs. Palace, Warrior Run, Pa.
Fox Ex. vs. Savoy Theatre, Bethlehem, Pa.
United Artists vs. Victoria Theatre, Westville, N. J.

The following cases were postponed to February 10th:

First National Ex. vs. Strand, Berwick, Pa.
De Luxe Ex. vs. Palace Theatre, Pen Argyl, Pa.
Pathe Ex. vs. Hunt's Theatre, Wildwood, N. J.
Pathe Ex. vs. Hunt's Theatre, Cape May, N. J.
Respectfully submitted.

Geo. P. Aarons, Secretary.

GPA:ASH.

[fol. 2877] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, February 10th, 1928, at 11:00 A. M., 1337 Vine St., Philadelphia, Pa.

Mr. S. Wittman acted as chairman.

Case #1, United Artists vs. Patrick F. Morrison, Highland Theatre, Audubon, New Jersey

Committees: Exchanges, Humphreys, Heenon, Zagrons; Exhibitors, Power, Geo. Kline, Fertel.
Exhibitor not present.

Claim: Contracts were signed by E. P. Delahunty for Morrison, under date of June 23, 1926, July 8, and 19th, 1927, provided for 15 pictures. Two pictures were played and thirteen were left unplayed. Date of last picture played was January 2nd, 3rd, 4th and 5th, 1928. The two pictures played were College, rental value $250.00, and Two Arabian Knights, $300.00. Check covering production College given by the exhibitor was returned as being N. G.' Production Two Arabian Knights has never been paid for, totalling $550.00.

Playing arrangement—To be played or paid for within thirty days after notice of availability. The theatre closed and no provisions were made for the outstanding contracts $4937.50, including the two above mentioned pictures.

The exhibitor had placed deposit with the Exchange amounting to $112.50, leaving a balance due the Exchange of $4745.00.

Decision: That the exhibitor pay to the Exchange $250.00 as covered by the N. G. check and pay $300.00 covering the Two Arabian Knights which exhibitor played and did not pay for, and in addition, pay to the Exchange $4195.00 and allowing credit for the deposit of $112.50, leaving a total amount of $4745.00 to be paid within seven days from date.

Case # 2, Fox Film Ex. vs. I. Zatkin, Parkside Theatre, Camden, N. J.

Committees: Exchanges: Humphreys, Heenon, Bodkin; Exhibitors, Power, Geo. Kline, Fertel.

Exhibitor not present.

Claim: Date of contracts October 20, 1926, and August 4th, 1927. The contract of 1926 was assumed by I. Zatkin, and the contract of August 4, 1927, was signed by I. Zatkin, covering 52 comedies, 26 varieties, 59 features. Exhibitor played 35 comedies, 10 varieties and 5 features, leaving unplayed 17 comedies, 16 varieties, 54 features. Last picture was played Feb. 4th, last comedy played Jan. 30th, last variety was played Jan. 3rd. Playing arrangement was not less than two pictures per month. Exhibitor refused shows delivered amounting to $74.00 Just prior to the meeting of the Board, the exhibitor paid on account of this $42.00, leaving a balance due of $32.00.

Decision: That the exhibitor pay to the Exchange the balance of $32.00 within seven days from date and upon

[fol. 2878] his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were reported withdrawn or settled:

Liberty Ex. vs. C. E. Buell, Opera House, Red Lion, Pa.
Masterpiece Ex. vs. John Marinos, Palace, Warrior Run, Pa.
Regis Theatre, Phila., vs. Fox Exchange.
First National vs. Strand Theatre, Berwick, Pa.
De Luxe Ex. vs. Palace, Pen Argyl, Pa.

The following cases were postponed until February 17th, 1928:

Pathe Ex. vs. Hunt's Theatre, Wilwood, N. J.
Pathe Ex. vs. Hunt's Theatre, Cape May, N. J.
Respectfully submitted.

Geo. P. Aarons, Secretary.

GPA:ASH.

[fol. 2879] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, February 17th, 1928, at 11.00 A. M., 1337 Vine Street, Philadelphia, Pa.

Mr. Lewen Pizor acted as chairman.

Case #1, Liberty Film Corp. vs. Interurban Theatres, Inc., Operating the Narberth Theatre, Narberth, Pa.

Committees: Exchanges, Quinleven, Heenon, Hebrew; Exhibitors, Goldman, Power, Axler.

Claim: The Theatre Company was represented by M. Freed and F. Salison, officers of the Theatre Corporation. Contract in question was signed October 24, 1927, by Interurban Theatre Co., Inc., William Crozier, Manager. It was

for twenty 2-reel comedies. Playing arrangement: As released. Dates requested December 20, 1927, and dates set by the Exchange Jan. 9, 1928. On November 5, one comedy was played by the theatre, and 19 remained unplayed. The confirmation of the contract was mailed to the theatre October 27, 1927.

Defence: That no contract would be binding on the Corporation unless it was approved in writing by a proper officer of the Corporation; that Crozier had no authority to bind the Corporation on any contract. That further, the officers of the Corporation had no knowledge of the contract and that the picture played on November 5th, being a comedy, was played under the impression that comedies could be picked up without contracts. The comedy played on November 5th, was paid for. It was further shown that under date of November 3rd, that the Corporation sent a notice to Film Board of Trade "That contracts must be approved by officers of the Corporation" and on November 4th, it was shown that notices were sent to the exchange members of the Film Board of Trade to this effect.

The letter of November 3rd, sent to the Film Board of Trade was in answer to a letter sent to the theatre in which the question of the authority of Crozier was asked by the Film Board of Trade. It was shown that four comedies booked for use by the theatre were not lifted, amounting to $30.00.

Decision: That the contract entered into on October 24, 1927, is valid and binding, insofar as a picture on the said contract had been played by the theatre, and further, that the exhibitor Theatre Corporation must pay to the Exchange within seven days from date hereof $30.00 covering the four comedies refused, and that the balance of the contract be completed in accordance with the terms of the said contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in

such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 2880] Case #2, Penn Productions, Inc. vs. Interurban Theatres, Inc., Operating the Narberth Theatre, Narberth, Pa.

Committees: Same as in Case #1.

Claim: Contract was dated October 20, 1927, for 18 pictures and signed as in Case #1. The approved contract was sent to Mr. Crozier personally, October 21, 1927, as the theatre was not opened on that date. The theatre did not open until Nov. 1, 1927. On December 15, 1927, Mr. Crozier set in for use at the theatre December 30 and 31, The Silent Hero at a rental value of $35.00. Availability notices on the other pictures were sent by the Exchange addressed to the theatre on November 15th and December 17th. No picture was played on this contract. The Silent Hero was not lifted. The contract was never approved by the theatre.

Defence: In this case was similar to defence in case #1, and further, that the officers of the Corporation had no knowledge of the contract until the picture arrived. In this case the dates set by Crozier were subsequent to the notice sent by the Secretary of the Film Board of Trade to its members under date of November 3rd, 1927, as indicated in Case #1.

The Board not being able to arrive at a decision, the vote of the Board being tie, the Secretary of the Board of Arbitration was instructed to write to the Chamber of Commerce of Philadelphia to select a seventh arbitrator.

Case #3, 20th Century Film Co. vs. Interurban Theatres, Inc., Operating the Narberth Theatre, Narberth, Pa.

Committees: Same as in Case #1.

Claim: Contract was signed by Mr. Crozier on December 7th, 1927, confirmation of play date was signed December 8th. The first picture was dated for use on January 18th and 19th, which dates were set by Crozier. On November 3rd, notice was sent to the members of the Film Board of Trade by its Secretary, as in cases #1 and #2, and further, the Theatre Corporation representatives denied at any time were any officers of the Corporation present at the

signing of the contract, nor was the contract ever approved by the authorized officer of the corporation. The contract did not provide for any playing arrangement.

Decision: The Board decided that the case be dismissed and the contract be declared invalid for the reason of it not being signed or approved by the officers of the Theatre Corporation after notice had been sent to the Exchanges, and further, that the contract had been signed and dated after the notice had been sent to the Exchanges under date of November 3, 1927.

Case #4, De Luxe Film Co., Inc., vs. Highland Theatre, Audubon, N. J.

Committees: Exchanges, Quinleven, Heenon, Hebrew. Exhibitors, Schwartz, Power, Axler.

Claim: Contracts dated June 17, 1927, covering 40 pictures; contract signed by E. P. Delahunty, as agent for Pat- [fol. 2881] rick F. Morrison, the owner of the theatre. 31 pictures had been played on the contract and 9 remained unplayed, amounting to $170.00. Date of the last picture played November 14, 1927, and the playing arrangement provided to be played as available. The theatre was closed and no provision was made for the completion of the balance of the contract.

Decision: That the exhibitor pay to the Exchange within seven days from date $170.00 covering the 9 pictures remaining unplayed on the contract.

Case #5, Liberty Film Co., vs. Alex. Fetsko, Peerless, Allentown

Committees: Same as in case #4.

Claim: Contract was signed Sept. 26, 1927, by H. Dubrawski and contracts were assumed by Fetsko.

Exhibitor was not present. It appeared that the exhibitor had used pictures from October 29, 1927, to January 6, 1928, to the amount of $79.76, without paying for the same. Although having repeatedly promised to pay for them and had given various checks to the Exchange in payment of the pictures. Which checks were returned, however, marked Not Sufficient Funds and some checks not having been presented for payment had not been done so, be-

cause of the statement made by the exhibitor that no provisions had been made by him to meet such checks.

Decision: That the exhibitor pay $79.76 as covered by the pictures played by him and not paid for during the period from Oct. 29, 1927, to Jan. 6, 1928, inclusive, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were marked settled or withdrawn:

Liberty Film Co., vs. Alma Theatre, Philadelphia.
F. B. O. vs. Broadway, Wilmington, Del.
F. B. O. vs. Palace, Pen Argyl, Pa.
F. B. O. vs. Parkside, Camden, N. J.
Crystal Theatre, Miners Mills, Pa. vs. F. B. O.
Fox ex. vs. Alma, Philadelphia.

The following cases were postponed to February 24th, 1928.

Fox vs. Jos. Rose, Rose Theatre, Phila., Pa.
Pathe vs. Hunt's Theatre, Wildwood, N. J.
Pathe vs. Hunt's Theatre, Cape May, N. J.

Respectfully submitted,

Geo. P. Aarons, Secretary.

GPA: ASH.

[fol. 2882] Minutes of Meeting of Joint Board of Arbitration Held Friday, February 24, 1928, at 11.00 A. M., 1337 Vine Street, Phila.

Mr. S. Wittman acted as Chairman.

Case #1. 20th Century Film Co. vs. D. J. McFadden, Lyric, Kulpmont.

Committees: Exchanges, Heenon, Neufeld, Humphreys; Exhibitors, Goldman, Power, Axler.

Claim: Contracts dated June 11, 1927, signed by D. J. McFadden, for 20 pictures, 12 played and 8 remain unplayed. Date of last picture played was January 5, 1928. There was no playing arrangement provided for in the contract. Picture Broadway Drifter was dated in at the request of the exhibitor and confirmed by him for January 19, 1928 for rental value of $10.00. The picture was shipped and the exhibitor refused to pick it up. The claim is for rental price of the picture and return express charges on Broadway Drifter $1.80, also return express charges on Snarl of Hate 82c, and His Rise to Fame 83c. Cost of telegram touching upon the return of Broadway Drifter $1.23, making a total claim of $14.68.

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days from date hereof $14.68 and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Columbia Pictures vs. H. Fried, Seville, Bryn Mawr, Pa.

Committee: Same as in case #1.

Exhibitor not present.

Claim: Contracts were dated July 6, 1927, signed by W. J. Haggerty, and August 9, 1927, signed by H. Fried. The total number of pictures on the contracts were 50. Two pictures were played on the contract of July 6th, and 18 were unplayed on the same contract. No pictures were played on the contract of August 9, 1927. They playing arrangement was "Seven days after Market Street." Date of last picture played on contract of July 6th, was December 12th and 14th. Picture Sally in Our Alley on contract of August 9th, 1927, was dated in by the exhibitor for use

in January 1928, and picture was not lifted by the exhibitor. Rental value $80.00. On contract of July 6th, exhibitor furnished no dates and exchange repeatedly requested dates and exchange finally set dates for Through Darkest Africa January 20-21, 1928, rental value $35.00. Alias Lone Wolf January 27-28, 1928, rental value $80.00. Exhibitor did not pick up either of the pictures, making total rental due of $195.00.

[fol. 2883] Decision: That the exhibitor pay to the Exchange within seven days from date $195.00 the value of the above productions, and upon his failure to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Columbia Pictures vs. E. P. Delahunty, Highland, Audubon, N. J.

Committees: Same as in Case #1.

Exhibitor not present.

Claim: Date of contracts July 8, 1926 and May 31, 1927, signed by E. P. Delahunty. There were 54 pictures, 19 of which had been played, leaving 35 pictures unplayed. Date of last picture played was January 5, 1928. Playing arrangement "To be played as available." The theatre was closed without making proper provisions for the unplayed portion of the contract covering the 35 pictures, amounting to $1135.00.

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $1135.00 the rental value of the 35 unplayed pictures.

The following cases were reported settled or withdrawn:

De Luxe Exchange vs. Parkside Theatre, Camden, N. J.

Fox Ex. vs. Savoy Theatre, Bethlehem, Pa.

Fox Ex. vs. Rose Theatre, 151 Levering Street, Philadelphia.

Pathe Ex. vs. Hunt's Theatre, Wildwood, N. J.

Pathe Ex. vs. Hunt's Theatre, Cape May, N. J.

Penn Productions vs. Narberth Theatre, Narberth, Pa., referred to a seventh arbitrator on February 17th, was reported settled.

The following case was postponed to Friday, March 2nd, 1928:

F. B. O. vs. Carlton Theatres, Inc., Williamsport, Pa.

Respectfully submitted.

Geo. P. Aarons, Secretary.

GPA:ASH.

[fol. 2884] Minutes of the Meeting of the Joint Board of Arbitration Held on Friday, March 2nd, 1928, at 11.00 a. m., 1337 Vine St., Philadelphia, Pa.

Mr. S. Wittman acted as Chairman.

Case #1, Fox Ex. vs. N. Mari, Colonial Theatre, Bristol, Pa.

Committees: Exchanges, Heenon, Bodkin, Humphreys; Exhibitors, Power, Pizor, Goldman.

Exhibitor not present.

Claim: Contracts dated March 10, July 1, and August 1, 1927, for 58 features, 26 comedies, 26 varieties, 156 news, 36 news reels were the only pictures played. The last News reel played December 30, 1927. Playing arrangement: "Not less than two a month on comedies and varieies; five a month on features; two a week on News." Dates were requested frequently and dates were set in by the exhibitor. Between January 6th and February 28th, 8 News were refused and 4 features, making a total rental of $114.50. The theatre is now closed. Play dates were prior to the closing of the theatre.

Decision: That the exhibitor pay to the exchange within seven days from date $114.50, total amount of pictures refused, and to complete the balance of the contract in accordance with the terms thereof when the theatre is reopened, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of

the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Fox Ex. vs. Fried, Seville Theatre, Bryn Mawr, Pa.

Committees: Exchanges, Heenon, Bodkin, Humphreys; Exhibitors, Power, Pizor, Axler.

Exhibitor not present.

Claim: The Exhibitor played Hold Your Hat on January 30th, and February 1st, and did not return this picture to the Exchange in time, with the result that the Exchange was put to the expense of $3.57 covering telegrams, tickets to Trenton, in order to ship print by baggage express to the exhibitor following the Seville. Baggage check and other expenses amounted to $3.57.

Decision: That the exhibitor pay to the Exchange $3.57 to the exchange within seven days from date and upon failure of the exhibitor to comply with this decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such [fol. 2885] distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Pathe ex. vs. N. Mari, Colonial Theatre, Bristol, Pa.

Committees: Exchanges, Heenon, Bodkin, Zagrons; Exhibitors, Power, Pizor, Axler.

Exhibitor not present.

Claim: Date of contract January 5, 1927, for 16 pictures, 13 of which were played, leaving three unplayed. Date of last picture played was January 4th, 1928. Dates were set in by the exhibitor for use but he closed the theatre. This involves two features, one in amount of $12.50 and one in amount of $15.00, neither of which pictures the exhibitor lifted.

Decision: That the exhibitor pay to the Exchange within seven days from date $27.50 covering the two pictures, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

In addition to the above, there were $52.50 worth of short subjects on a standing order contract. This included 12 issues of Pathe News, 10 Aesops Fables, of which one issue was used and not paid for, and two Aesops Fables used and not paid for amounting to $6.00, included in the total amount of $52.50.

Decision: That the exhibitor is to pay to the Exchange within seven days $52.50 covering the Pathe News and Fables and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor members of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Liberty Film Co. vs. I. Zatkin, Standard, Camden, N. J.

[fol. 2886] Committees: Same as in Case #3.

Exhibitor not present.

Claim: Contracts dated August 6, 1926 and March 2, 1927, covering 24 two reel comedies and 52 single reels. Played 13 two reelers and 5 single reels, leaving unplayed 11 two reelers and 47 singles. Date of last picture played December 24, 1926. Dates were all set in by the exhibitor, of which he failed to lift 8 single reels and 5 two reelers, amounting in all to $40.50.

Decision: That the exhibitor pay to the Exchange within seven days from date $40.50 covering the film which he failed to pick up and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Universal ex. vs. H. Dubrawski, Peerless, Allentown, Pa.

Committee: Exchanges, Heenon, Bodkin, Zagrons; Exhibitors, Power, Perlin, Axler.

Mr. Pizor now acting as Chairman.

Exhibitor not present.

Claim: Contracts signed by H. Dubrawsky for 30 features 26 two reel Westerns, 23 comedies, 10 serials, of which 7 features were played, no two reel Westerns, one comedy and no serials. Date of last picture was December 30, 1927, on features, did not start the two reel Westerns, November 14, 1927, on the comedies and January 26, 1928, started one serial. Playing arrangement "As per contract." Nu-

merous dates were requested. Dates were finally set by the Exchange by two letters dated January 25, 1928, and February 3rd, 1928. Of the contracts in question, four were dated on October 13, 1927, and the comedy contract dated October 18, 1927. The exhibitor left laying and refused to lift the pictures to the total amount of $45.97, included in which are parcel post charges and C. O. D. fees of 60c on picture Oh Baby. The theatre is now closed.

Decision: That the exhibitor pay to the Exchange within seven days from date $45.97 covering the pictures which he failed to list and parcel post and C. O. D. fees.

The following cases were marked withdrawn or settled:

F. B. O. vs. Milton Forman, Carlton Theatres, Inc., touching the following theatres: New Theatre, Mifflingburg, Newport Theatre, Newport, Lyceum Theatre, Montgomery, Carlton Theatre, Watsontown, Pa., Ritz Theatre, Hughes-[fol. 2887] ville, Queen Theatre, St. Claire, Penna.

Fox vs. Savoy Theatre, Bethlehem.

Liberty Film vs. J. G. Meyer Amusement Co., operating the following theatres: Crawford Theatre, Canton, Family Theatre, Troy, Victoria Theatre, Blossburg, Grange Hall, Tioga, Capitol Theatre, Montoursville, Victoria Theatre, Jersey Shore.

United Artists vs. Seaside Theatre, Somers Point, New Jersey.

Columbia Pictures vs. Strand, Carlisle, Pa.

United Artists vs. Opera House, Woodstown, N. J.

The following cases were postponed to March 9th, 1928:

F. B. O. vs. New Princess, Philadelphia.

Pathe vs. Seville, Bryn Mawr, Pa.

E. Eggenweiler, Orpheum, East Mauch Chunk, Pa., vs. F. B. O.

United Artists vs. Palace, Glassboro, N. J.

Respectfully submitted, Geo. P. Aarons, Secretary, Joint Board of Arbitration.

GPA:ASH.

[fol. 2888] Minutes of the Board of Arbitration Meeting Held Friday, March 9, 1928, at 11.00 A. M., 1337 Vine Street, Phila.

Mr. S. Wittman acted as Chairman.

Case #1, Columbia Pictures vs. M. Dubrawski, Palace, Sheppton, Pa.

Committees: Exchanges, Quinleven, Given; Exhibitors, Pizor, Axler.

Claim: Date of contracts March 3, 1927 and Sept. 4, 1927. Contracts signed by M. Dubrawski covering 16 pictures; six had been played, leaving 10 unplayed. Date of last picture played was August 9, 1927. There was no playing arrangement. Numerous dates were requested and set as follows by the Exchange—January 26, 1928 for four pictures:

Obey the Law, Feb. 11, 1928	$8.00
Stolen Pleasures, Feb. 5, 1928	$8.00
Remember, March 3, 1928	$8.00
Wandering Girls, March 10, 1928	$8.00

Exhibitor was not present.

Decision: That the exhibitor pay to the Exchange $32.00, representing rental value of pictures not lifted by him and to complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Metro-Goldwyn Corp. vs. J. McFadden, Lyric, Kulpmont, Pa.

Committees: Exchanges, Wiener, Given, Quinleven; Exhibitors, Goldman, Pizor, Axler.

Claim: Contract dated Oct. 12, 1926 for 48 pictures, upon which there remained 15 unplayed pictures and a contract dated Oct. 12, 1927, for 49 pictures, none of which had been played, and the playing arrangement on both contracts: One a week as available and playing arrangement on the first contract, one picture per week starting November 1926. Both contracts were signed by Mr. McFadden. Date of last picture played was Jan. 21, 1928. There were five pictures set by the Exchange and shipment refused by the exhibitor, involving parcel post charges of $6.75, making a total of $149.25, including the rental value of the pictures.

Exhibitor not present.

Decision: That the exhibitor complete the balance of the contracts in accordance with the terms of the contracts and [fol. 2889] that he pay $149.25 representing the value of the pictures refused, plus parcel post charges, within seven days from date and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $245.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Mrs. S. B. Steinberg, Eclipse, Eddystone, Pa., vs. Warner

Committees: Exchanges, Quinleven, Wiener, Applegate; Exhibitors, Goldman, Axler, Pizor.

Claim: On February 25, 1928, the exhibitor received from the Exchange a picture Monte Blue in The Brute. Her contention was that this picture was received in such poor con-

dition that it was impossible for her to use it at the evening performance, and that upon complaint to the Exchange she was furnished with another production Other Women which was not advertised. It further appeared that the operator is the exhibitor's son, Phillip Steinberg, that the theatre opens for matinee about fifteen minutes before three o'clock, that the exhibitor in question was in the box office, that the operator, her son, always reached the theatre about two hours prior to the opening of the matinee and that on this day in question that he had examined the film and it was in such bad condition (according to an affidavit submitted by Philip Steinberg) that it could not be used for matinee. The seating capacity of the theatre is 900. The exhibitor further testified that she actually showed the picture on Saturday matinee. That she was compelled to return tickets to the people for matinee and that on the evening performance she advised her patrons that they could come to the theatre without charge.

It further appeared that the show at matinee consisted of three short reels, the feature, and three acts of vaudeville. The exhibitor calculated about 500 people were in the theatre and about 500 people were refunded their money. That her admission prices were 15 and 25c bother for matinee and evening performance on Saturday. There was no actual damage shown. Exhibitor did not present any proofs of return of money. Did not show any specific loss but pieces of the film showed that it was very much torn.

Defence: That the film did not leave the office in the condition alleged by the exhibitor; that the rental value showed that it was an old film but in runnable order, and upon hearing all the evidence the Board then made the following decision:

Decision: That the exhibitor be paid $25.00 by the Exchange within seven days from date as damages for being compelled to use in the evening a different picture from that booked because of the poor condition of the film.

[fol. 2890] Case #4, Louis Linker, Lenox Theatre, Phila., vs. Columbia Pictures

Committees: Exchanges, Givens, Quinleven, Applegate; Exhibitors, Goldman, Pizor, Axler.

Exhibitor was present.

Claim: This was two claims merged in one, the claim of the exhibitor for cancellation of the contract on the grounds of a breach of contract, and the claim of the Exchange for value of rental of pictures set by the exchange and not lifted by the exhibitor. The claim of the exchange was received at this time in order to avoid a second case insofar as the subject matter of both cases could be considered at one time.

The contract in question was dated July 15th, 1927, signed by the Lenox Amusement Company on November 15, 1927, was assumed by Louis Linker, the exhibitor now operating the theatres in question. Contract provided for 30 pictures, two of which had been played, leaving 28 unplayed. The last picture on the contract played was January 11-12, 1928 Alias Lone Wolf. Contract provided for protection as follows: "Ahead of Bartram, Cameo, Doris. To be played 30 days after first run in West Philadelphia." The exchange demanded dates from the exhibitor who refused to furnish dates, because of an alleged breach of contract, and the exchange set on February 18th, Isle of Forgotten Women for use of the exhibitor March 7-8, 1928.

The complaint of the exhibitor for failure to lift the shows was due to the fact that he alleged that the Bronson Theatre, which was opened on February 13, 1928, several months after the date of the contract, was in direct competition with him, and that the protection clause on the contract did not mention the Bronson Theatre, because at the date at which time the contract was entered into, the Bronson Theatre was not in existence, and therefore he should not be compelled to play second-run to the Bronson Theatre. It was shown, however, in July of 1927 that the Bronson was under course of construction, that it had been advertised extensively, and that the exhibitor in making contract had due notice of the forthcoming opening of the Bronson Theatre and that the assumption by Linker of the contract was an assumption of all liabilities under the contract and he received no greater protection that the contract in question outlined.

Upon hearing all the evidence, the Board made the following decision: That the claim of the Lenox Theatre for breach of contract be dismissed and that the exhibitor go through with the contract in accordance with the terms of

the contract, and further, in view of the controversy between the parties, that the Exchange accept a new date for the Isle of Forgotten Women in place of the arbitrary dates set, and that the exhibitor plays or pays for the remaining pictures on the contract at the rate of not less than three a month, starting not later than April 1, 1928, without regard to the set dates, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its [fol. 2891] protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were marked settled or withdrawn:

20th Century Corp. vs. Colonial, Bristol, Pa.

E. Eggenweiler, Orpheum, East Mauch Chunk, Pa., vs. F. B. O.

Columbia Pictures vs. H. Perelman, West Allegheny Theatre, Phila.

Columbia Pictures vs. H. Perelman, Lehigh Theatre.

Columbia Pictures vs. 24th Street Theatre, Phila.

Columbia Pictures vs. Hill's Theatre, Paulsboro, N. J.

Metro-Goldwyn-Mayer Corp. vs. Carlton Theatres, Inc., Williamsport.

Pathe Ex. vs. Standard Theatre, Camden, N. J.

Columbia Pictures vs. I. Zatkin, Standard Theatre, Camden, N. J.

Masterpiece Ex. vs. Mr. Shapiro, Felton Theatre, Phila.

The following cases were postponed to March 16th:

Fox Ex. vs. D. J. McFadden, Lyric Theatre, Kulpmont, Pa.

F. B. O. vs. Tioga Theatre, Philadelphia.

F. B. O. vs. New Princess Theatre, Phila.

Pathe Ex. vs. Seville Theatre, Bryn Mawr, Pa.

United Artists Corp. vs. Palace Theatre, Glassboro, N. J.

Respectfully submitted.

Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 2892] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, March 16th, 1928, at 11:00 A. M., 1337 Vine St., Phila.

Mr. Oscar Neufeld acting as Chairman.

Case #1, Universay Ex. vs. Diamond Amusement Co., Phila., Pa.

Committees: Exchanges, Heenon, Wiener, Humphreys; Exhibitors, Goldman, Price, Power.

Claim: Contract dated February 11, 1927, signed by M. Lessy, for standing order 52 odd issues and 52 even issues of the News. Played 19 odd and 17 even. Date of last picture played Feb. 10-11, 1928. Playing arrangement was two a week. The contract was signed Feb. 11, 1927, with a starting date of October 17, 1927 and October 21, 1927. The exhibitor refused to play any after February 11, 1928 alleging that the original contract for News was sold on the basis of 52 weeks in 1923 and that he did not open the theatre until Feb. 16, 1923, and that he has played the News constantly since that time. That the playing date was not October as written on the contract but to begin February and which would end in February 53 weeks later. All the contracts produced by the exchange for 1925, 1926 and 1927 had starting dates in them as of October each year and not February.

Decision: It was the decision of the Board that the contract dated February 11, 1927 in question was valid and that the exhibitor pay within seven days from the date hereof $50.00 representing the issues not lifted since February 11, 1927 and which had been dated in by the exchange two each week, and that the exhibitor further complete the balance of the contract, in accordance with the terms of the contract and that the contract starting date was October 17 and October 21, 1927, and not February, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum

not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Columbia Pictures vs. F. Hollister, O. H., Girardville, Pa.

Mr. Wittman now acted as Chairman.

Committees: Exchanges, Heenon, McFadden, Humphreys; Exhibitors, Fertel, Price, Power.

Exhibitor not present.

Claim: Contract dated Jan. 31, 1927, signed by F. Hollister for 15 pictures, 11 of which played. Last picture played was Jan. 24, 1928. The Clown was booked by the exhibitor for Feb. 14, 1928, at a rental value of $20.00, [fol. 2893] which the exhibitor refused to lift. Exchange had incurred expenses of $1.52 for postage.

Decision: That the exhibitor pay to the Exchange within seven days from date $21.52 covering The Clown, plus postage, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Columbia Pictures vs. W. M. Hissner, Strand, Annville, Pa.

Committees: Same as in Case #2.

Exhibitor not present.

Claim: Contract dated January 9, 1928, signed by W. M. Hissner covering five pictures, four played and one refused by the exhibitor. Picture was dated by the exhibitor for use Feb. 7, 1928 The Tigress at $8.27, expenses incurred $10.19, making a total of $18.46.

Decision: That the exhibitor pay to the Exchange within seven days $18.46 covering The Tigress and expenses in-

curred by the Exchange, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, De Luxe Ex. vs. M. Seltzer, Douglass Theatre, Phila., Pa.

Committees: Exchanges, Heenon, McFadden, Humphreys; Exhibitors, Fertel, Schwartz, Power.

Claim: Contract dated 1927. The picture in question Captain Courage, rental value $8.00, and a Serial $4.00, was played by exhibitor December 28, 1927, and not paid for.

Decision: That the exhibitor pay to the Exchange within seven days from date $12.00 covering the picture and serial played and not paid for, and upon failure of the exhibitor to comply with the decision of the Board, then the distribu- [fol. 2894] tor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, F. B. O. vs. P. Cavoli, Landisville Theatre, Landisville, N. J.

Committees: Exchanges, Heenon, Wm. Bethel, Humphreys; Exhibitors, Fertel, Schwartz, Power.

Exhibitor not present.

Claim: Contract dated November 29, 1927, for series of features. No pictures were played on the contract. Playing

arrangement was one each week, starting January 28th. Exhibitor constantly refused to set dates and refused 5 features at $7.50, five, two reel subjects at $3.50, and five single reels at $1.50, a total of $62.50.

Decision: That the exhibitor pay to the Exchange within seven days from date $62.50, and that he complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, Universal Ex. vs. S. Stiefel, Columbia Theatre, Phila., Pa.

Mr. Pizor now acting as Chairman in place of Mr. Wittman.

Committees: Same as in Case #5.

Exhibitor not present.

Claim: Contract dated 11/29/26, signed by Hayes Amusement Co., assumed by assignment signed by S. H. Stiefel, covering 26 single reel Bluebird Comedies. 12 had been played, 14 left unplayed. The date of the last picture played is April 13, 1927. The playing arrangement was to start December 24, 1926 and to be "Wild Cat". Dates were continuously requested, and finally dates were set January 12, 1928 for seven Bluebird Comedies, a total of $14.00, and only two comedies having been paid for since the claim was filed, making a balance of $10.00.

[fol. 2895] Decision: That the exhibitor pay to the Exchange within seven days from date $10.00, representing the comedies refused and not paid for by the exhibitor, and that the exhibitor complete the balance of the contract, in accordance with the terms of the contract as the comedies become available for his use, and upon failure of the exhibi-

tor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $100.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were marked settled or withdrawn:
Fox Ex. vs. Orpheum, Carlisle, Pa.
Universal Ex. vs. Colonial, Bristol, Pa.
Columbia Pictures vs. Lehigh, Philadelphia,
Columbia Pictures vs. W. Allegheny, Philadelphia.
F. B. O. vs. Tioga Theatre, Philadelphia.
F. B. O. vs. New Princess Theatre, Philadelphia
Fox vs. McFadden, Lyric Theatre, Kulpmont, Pa.
Columbia Pictures vs. Broadway Theatre, Wilmington, Del.

The following cases were postponed to March 23rd, 1928:
Interstate Ex. vs. S. Podsiadlik, Palace Theatre, Warrior Run, Pa.
Columbia Pictures vs. Bellevue Theatre, Philadelphia.
Universal Exchange vs. Bellevue Theatre, Philadelphia.
Columbia Pictures vs. Orpheum Theatre, Carlisle, Pa.

The following cases were postponed to March 30th, 1928:
Pathe Ex. vs. Seville, Bryn Mawr, Pa.
United Artists vs. Palace, Glassboro, N. J.

Respectively submitted.
Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 2896] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, March 23, 1928, at 1337 Vine Street, Philadelphia, Pa.

Mr. William Heenon acted as Chairman.

Case #1, Universal Ex. vs. S. Podsiadlik, Palace, Warrior Run and Buttonwood Theatre, Buttonwood, Pa.

Committees: Exchanges, Quinleven, Weiner, Zagrons; Exhibitors, Goldman, Power, Price.

Exhibitor was present.

Claim: Dates of contract April 15, 1927, 56 weeks' complete service contract. Exhibitor played and paid for 30 weeks, 22 weeks unplayed. The claim was $130.22 made up for service starting Feb. 11th, 1928, and March 22nd, 1928, inclusive. Of the claim of $130.22, $10.20 was represented for parcel post on shows refused by the exhibitor.

The exhibitor offered no real defense, but stated that the business was very poor and he was going to have shows but two days a week.

Decision: That the exhibitor pay to the exchange within seven days from date $10.20, the amount of the parcel post on the refused shows, and that beginning with the week of April 9th, 1928, that he must play or pay for one complete service a week until the contract is completed, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Columbia Pictures vs. Bellevue Theatre, Phila., Pa.

Committees: Exchanges, Zagrons, Heenon, Quinleven; Exhibitors, Pizor, Schwartz, Fertel.

Mr. Wittman now acting as Chairman.

Exhibitor was present.

Claim: Contract in question was dated May 3, 1927 and signed by A. Fischer, with authority of Mr. Axler, covering 26 Screen Snapshots, 9 had been played and 17 unplayed. The date of the last picture played was October 7, 1927, and dates were set in by the Exchange covering five Snapshots between February 18th and March 17th, 1928, amounting to $51.00.

Defense was that a contract was signed on May 3, 1927, and the very next day before the exhibitor received an approval copy of the contract, that the defendant went to the [fol. 2897] exchange wtih Mr. Fischer and cancelled the application verbally; that he never did receive an approved copy of the contract.

The Exchange was represented by Mr. Wiener, who stated that the contract was approved and approval sent to the exhibitor before exhibitor came into the office and he then came into the office to complain about the price, and he told the exhibitor that the contract having been approved, he could not cancel it.

At this point the Board requested a copy of the letter showing the approval of the contract, and by mutual consent of all parties, the case was then adjourned for one week to enable the parties to produce further testimony and witnesses.

Case #3, Columbia Pictures vs. I. Zatkin, Parkside, Camden, N. J.

Committees: Same as in case #2.

Claim: Two claims based on two contracts, one dated December 9, 1926 for 24 pictures, 18 played and six unplayed. Last picture played March 15, 1928. The dates submitted were dates of the exhibitor and to be played regularly at the rate of one a week. On this contract "Birds of Prey" was refused March 1, 1928, amounting to $12.50. Second contract dated February 3, 1297, for 26 pictures, 5 played, 21 unplayed, with dates submitted by the exhibitor under similar playing arrangement as other contract; this contract covering Screen Snapshots. On February 17th, 1928, the exhibitor refused #6, $1.50.

Exhibitor was not present.

Decision: That the exhibitor pay within seven days $14.00, representing the amount of the rental of the pictures left unplayed, and that he complete the balance of the contract, in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distribtors, demand for its protection and as secur-

ity for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Columbia Pictures vs. F. Hollister, O. H., Girardville, Pa.

Committees: Same as in Case #3.
Exhibitor not present.
Claim: Contract signed January 31, 1927, covering 15 pictures, 12 played and 3 unplayed. Last picture played February 14, 1928. Dates were furnished by the exhibitor. Claim is for $21.52 for the rental of the "Swell Head" refused by the exhibitor on February 28, 1928. Rental value $20.00, in addition to $1.52 parcel post.
[fol. 2898] Decision: That the exhibitor pay to the Exchange within seven days from date $21.52, covering the rental of the "Swell Head", plus parcel post charges, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, De Luxe Ex. vs. C. Vrontisis, Palace, Pen Argyl, Penna.

Committees: The same as in Case #4.
Exhibitor not present.
Claim: Date of contract November 1, 1926 for 46 pictures, 26 of them had either been played or paid for and 20 pictures left unplayed. Playing arrangements to be "Pay

for one picture a week." Exhibitor refused to pay for four pictures for four weeks, between March 1st and March 22nd, 1928, amounting to $44.00.

Decision: That the exhibitor pays to the exchange within seven days from date $44.00, and that he completes the balance of the contract by playing or paying for the pictures at the rate of one a week, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, United Artists vs. L. Joyce, Blackwood Theatre, Blackwood, N. J.

Committees: The same as in Case #5.

Exhibitor not present.

Claim: Date of contract July 1, 1926, covering one picture "Winning of Barbara Worth". Playing arrangement "To be played within 30 days after notice of availability by the distributor." Availability notice was sent under date of April 27, 1927, for play date July 11, 1927. Theatre was closed and after it was reopened the exchange, upon numerous occasions requested play dates and dates were set on February 6-7, 1928, and the exhibitor failed to lift the show. The rental value of the picture was $50.00.

[fol. 2899] Decision: That the exhibitor pay to the Exchange within seven days from date $50.00 covering the rental value of "Winning of Barbara Worth", and upon failure of the exhibitor to comply with this decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor

member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #7, Fox Ex. vs. H. Schleifer, Crescent Theatre, Philadelphia

Committees: Exchanges, Safron, Heenon, Quinleven; Exhibitors, Pizor, Schwartz, Power.

Exhibitor not present.

Claim: Late return of shows. It appeared that a News reel played by the exhibitor on Feb. 27, 1928, was not returned until Feb. 29, 1928, for which a claim of $2.00 was made, and telegram of 23c. A comedy "Steeple Chaser" played Feb. 29, 1928 and was not returned until March 2, 1928, for which a claim of $15.00 was made. Also a comedy "Cupid" played March 21, 1928 and was not returned until March 23rd, 1928, for which a claim of $10.00 was made, or a total of $27.23.

Decision: That the exhibitor pay to the exchange within seven days from date $27.23 covering the shows held out, and that upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #8, Paramount Ex. vs. M. Dubrawski, Palace, Sheppton, Penna.

Same Committee as in Case #7.

Exhibitor not present.

Claim: Date of contracts March 7, 1927, and December 16, 1927, for 19 pictures. 16 pictures played and 3 unplayed. Date of last picture played December 27, 1927.

Playing arrangement "One a week". Dates were furnished by the exhibitor and the following shows were not lifted by the exhibitor:

Nov. 24, 1927.	Mysterious Rider	$10.00
Dec. 13, 1927.	Forlorn River	$10.00
Dec. 20 1927.	Paradise for Two	$10.00

[fol. 2900] and transportation charges on the above shows, $3.14, making a total of $33.14.

Decision: That the exhibitor pay to the Exchange within seven days from date $33.14, covering the refused shows, plus parcel post, and upon his failure to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #9, De Luxe vs. E. R. Bourgeois, Seaside Theatre, Somers Pt., N. J.

Committees: Exchanges, Quinleven, Heenon, Zagrons; Exhibitors, Power, Pizor, Perlin.

Exhibitor not present.

Claim: This was a claim for $200.00, representing the film value of 20 pictures unplayed by the exhibitor, whose theatre is closed and no provision was made for the unplayed portion of the contracts.

Decision: That the exhibitor pay to the Exchange within seven days $200.00.

Case #10, United Artists vs. A. Fetsko, Peerless, Allentown, Penna.

Committees: Same as in Case #9.

Claim: Contract dated January 26, 1928 for one picture "When the Clouds Roll By" booked by the exhibitor for February 18, 1928. Picture was refused by the exhibitor. Rental value $10.00.

Exhibitor was not present.

Decision: That the exhibitor pay to the exchange within seven days from date $10.00, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were settled or withdrawn:

De Luxe Ex. vs. Flood's Theatre, New Philadelphia. (Silver Creek)

De Luxe Ex. vs. Auditorium, Schwenksville, Pa.

[fol. 2901] Pathe vs. Arcadia Theatre, Slatington, Pa.

Warner Bros. vs. Flood's Theatre, New Philadelphia, (Silver Creek).

Fox Ex. vs. Opera House, Barnegat, N. J.

Columbia Pictures vs. Orpheum Theatre, Carlisle, Pa.

The following cases were postponed to March 30th, 1928:

F. B. O. vs. Hippodrome and Franklin Theatres, Philadelphia.

The following case was postponed to April 13th, 1928:

Tiffany vs. Savoy, Bethlehem.

Respectfully submitted.

Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 2902] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, March 30th, 1928, at 11.00 A. M., 1337 Vine St., Phila., Pa.

Mr. S. Wittman acted as Chairman.

Case #1, Fox Ex. vs. Chas. Bayer, Park Theatre, Lehighton, Pa.

Committees: Exchanges, Heenon, Quinleven, L. Korson; Exhibitors, Perlin, Pizor, Power.

Claim: Date of contract was July 10, 1926, for Seventh Heaven and the contract provided that production be played three or four successive days, with the guarantee of $150.00 and percentage over and above a certain amount. The confirmation originally signed by the exhange was for two days, which is sent to the exhibitor. The exhibitor played the picture on January 2nd and 3rd, 1928, and refused to play it for an additional day. The exchange brought a claim of $65.80, to which they would be entitled if the picture had played three days.

The exhibitor had paid the full amount of $150.00, as called for by the contract.

Decision: It was the decision of the Board that the case be dismissed.

Case #2—De Luxe Ex. vs. B. T. LaMotte, Opera House, Red Lion, Pa.

Committees: Same as in Case #1.

This case was withdrawn by the Exchange.

Case #3, De Luxe Ex. vs. Mrs. J. M. Thomas, Summit, Harrisburg, Pa.

Committees: Same in Case #1.

Claim: For $30.00 covering two pictures, contract dated May 4, 1926, for 20 pictures; 17 of which were played and 3 unplayed. Exhibitor failed to play When Danger Calls, February 17th, $15.00, and Block, March 2, 1928, for $15.00.

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $30.00, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Columbia Pictures vs. H. Axler, Bellevue, Philadelphia, Pa.

Committees: Exchanges, Heenon, Quinleven, Zagrons; Exhibitors, Power, Pizor, Schwartz.

[fol. 2903] Exhibitor was present.

Claim: Contract was dated May 3, 1927, signed by A. Fischer, Jr., with protection clause "Ahead of the Broadway". Contract covered 26 Screen Snapshots, 9 of which played and 17 unplayed. Date of last picture October 7, 1927. Claim is for $51.00.

Defence: That the contract was cancelled on the same date that it was written and that he played some of the pictures Wildcat, and then later he played several spot booking at $3.00 prior to Sept. 16, 1927, and after that date, he played them at $2.50. The $2.50 was a reduction given to the exhibitor by the exchange. The exhibitor denied that he had received any letter of approval and the exchange produced a letter of the approval of the contract under date of May 5, 1927.

The witness for the defendant could not definitely state that the contract was actually cancelled on the same day it was signed, or that it had been cancelled before the approval had been sent. There was no definite testimony on this point by the exhibitor. The exhibitor further claimed that some of these Screen Snapshots had played the Broadway in violation of the contract and he was unable to prove, without any degree of definiteness which Snapshots they were.

Decision: That the exhibitor play the balance of the Screen Snapshots on the contract at the rate of one every other week, starting with the week of May 1, 1928, at the price of $2.50 per Screen Snapshot, and that the distributor must supply the Screen Snapshots to the exhibitor ahead of the Broadway in strict accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each

distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Columbia Pictures vs. F. Hollister, O. H., Girardville, Pa.

Committees: Same as in Case #4.

Claim: The contract was dated January 3, 1927, signed by Frank Hollister for 15 pictures, 11 played and 4 remain unplayed. Date of last picture was January 24, 1928. The exhibitor booked Rich Men's Sons for March 13, 1928, and refused to lift it. The claim is for the rental value of the picture of $20.00 and postage both ways $1.54, or total of $21.54.

Decision: That the exhibitor pays to the exchange within seven days from date $21.54, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the [fol. 2904] option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, Metro-Goldwyn-Mayer vs. R. Hanover, Strand, Clayton, N. J.

Committees: Exchanges, Heenon, Quinleven, Zagrons; Exhibitors, Power, Pizor, Axler.

Claim: For $57.50 covering the balance of three shows on the contract in question. The exhibitor closed his theatre without making proper arrangements.

Exhibitor not present.

Decision: That the exhibitor pay to the exchange within seven days from date $57.50.

Case #7, Masterpiece Attrac. vs. Pappas Bros., Bijou, Milton, Pa.

Committees: Same as in Case #6.
Exhibitor not present.

Claim: Date of contract August 24, 1927, signed by Pappas Bros., for 24 pictures and no pictures were played. Playing arrangement "As available". Numerous dates were requested by the exchange but the exhibitor failed to set in dates and finally on February 10, 1928, exchange set in dates, as follows:

Feb. 25, 1928.	Life of an Actress	$15.00
March 2, 1928.	Finnegan's Ball	15.00
March 10, 1928.	Death Valley	15.00
March 12, 1928.	Slaver	20.00
	Parcel Post	1.50
	Total	$66.50

Decision: That the exhibitor pay to the Exchange within seven days $66.50 covering the above, and further, that the exhibitor complete the balance of the contract in accordance with the terms of the contract, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #8, United Artists Corp. vs. E. Borgeois, Seaside, Somers Point, N. J.

[fol. 2905] Committees: Same as in Case #7.
Exhibitor not present.

Claim: Two contracts dated May 12, 1927, for two pictures, signed by F. V. Smith, Secretary of Borgeois. No pictures were played. Dates were set in by the exhibitor. Amount of pictures $45.00.

Exhibitor closed his theatre without making proper provisions for the pictures.

Decision: That the exhibitor pay to the Exchange within seven days from date $45.00.

Case #9, United Artists vs. L. Joyce, Blackwood Theatre, Blackwood, N. J.

Committees: Same as in Case #8.

Claim: Contract dated January 4, 1928, signed by the Blackwood Theatre Co., Joyce, Secretary, covering two pictures. Dates were furnished by the exhibitor on the contract The General for February 24-25, 1928, and Love of Sunya March 9-10, 1928. Exhibitor failed to lift these shows and the claim was for $50.00 rental value of the pictures.

Exhibitor was not present.

Decision: That the exhibitor pay to the exchange within seven days from date $50.00 covering the two pictures, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor, of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #10, Interstate vs. J. Hopkins, National, Wilmington, Del.

Mr. Pizor now acting as Chairman.

Committees: Exchanges, Heenon, Quinleven, Korson; Exhibitors, Power, Schwartz, Axler.

Claim: Date of contract January 29, 1927, signed by J. L. Hopkins, for seven pictures, six of which had been played and one remained unplayed. Playing arrangement "One every three weeks." Dates set for March 7, Hero on Horseback $12.50. The exhibitor refused to lift the picture and the claim is for $12.50 plus 37c parcel post charges, making a total of $12.87.

Exhibitor was not present.

Decision: That the exhibitor pay to the exchange within [fol. 2906] seven days $12.87 covering the refused picture and parcel post charges, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #11, Fox Ex. vs. Equity Theatres, Inc., Mammoth Theatre, Phila.

Mr. Pizor acting as Chairman.

Committees: Exchanges, Wm. Bethell, Quinleven, Heenon; Exhibitors, Power, Axler, Schwartz.

Claim: Contract was signed July 7, 1927, by J. Rosenthal for Equity Theatres, Inc., for 59 features, 21 features had played and 38 remained unplayed. Date of last picture played was March 29, 1928. Playing arrangement on all of the contracts in question averaged 4½ pictures per month.

The Equity Theatres, Inc., was represented by J. Rosenthal.

The question involved around two productions St. Elmo booked by the Exchange for use on February 13-14, 1928, at $150.00, and Come To My House for February 20-21, 1928, at $90.00. The dates were set by notice under date of January 26, 1928. It appears that there were subsequent runs depending upon this contract for the Mammoth Theatre. The exhibitor started to play the production under the various contracts about the first of September, 1927, and had failed to play up to the average of 4½ a month, although they were available for the theatre, and the theatre had so received notice from the exchange—pictures averaging at the rate of 4½ a month. The two

picture- in question were refused by the exhibitor on the basis that having submitted dates on all of the pictures available, and having submitted dates for the two pictures in question in May, that the exchange was either compelled to accept all of the dates submitted or refuse all of them, and could not select for refusal two features on the dates submitted, which dates submitted by the exhibitor were in accordance with availability notice sent by the exchange.

The exchange refused to accept the two features in May for the reason that subsequent runs would be seriously effected. The exchange, in addition to the payment of $240.00, requested a decision for the fulfillment of the contract, in accordance with the terms of the contract, i. e., that the exhibitor must be compelled to play 4½ pictures each month if such number be available for him in such month.

Decision: It was the decision of the Board that the exhibitor pay to the exchange within seven days from date [fol. 2907] $240.00 covering the rental value of the two productions in question St. Elmo and Come To My House, which he had failed to lift on the dates set, in accordance with the notice sent him by the Exchange, and that he may re-date these two productions with the privilege of playing them, but the re-dating of the productions in question not to effect subsequent run contracts, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor, or any other distributor, of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were withdrawn or settled:

Liberty Exchange vs. Bellevue Theatre, Phila.

Pathe Exchange vs. Seville Theatre, Bryn Mawr, Pa.

United Artists vs. Palace, Glassboro, N. J.

Warner Bros. vs. Savoy, Bethlehem, Pa.

Fox Exchange vs. Oxford Theatre, Philadelphia, Pa.
De Luxe Ex. vs. L. Chasanov, Elmer Theatre, Phila., Pa.
De Luxe Ex. vs. Mr. Schell, Auditorium, Schwenksville, Pa.
Columbia Pictures vs. Zinkoff, Victoria Theatre, Wellsboro, Pa.
United Artists vs. Wolf and Berger, Philadelphia.
The following cases were postponed to April 13, 1928—
F B O vs. P. F. Morrison, Highland Theatre, Audubon, N. J.
Liberty Ex. vs. H. Perelman, Lehigh Theatre, Phila.
United Artists vs. C. Stamper, Tioga Theatre, Phila.
F B O vs. Hippodrome and Franklin Theatres, Phila.

Respectfully submitted.

Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 2908] Minutes of the meeting of the Joint Board of Arbitration held Friday, April 13, 1928, at 11.00 A. M., 1337 Vine St., Philadelphia, Pa.

Mr. M. Landau acted as chairman.

Case #1, Columbia Pictures vs. Wm. Blumenberg, Stroud, Stroudsburg.

Committees: Exchanges, Given, Safron, Bodkin; Exhibitors, Goldman, Schwartz, Power.

Exhibitor not present.

Claim: Contract dated November 9, 1926, for 24 pictures, 11 of which had been played, 13 remaining unplayed, and the last picture played April 11, 1928. Playing arrangement "To be dated beginning May 15, 1927, and to be completed one year from the said rate." The pictures in question:

Pleasure Before Business booked March 8-10	$60.00
Refused by the exhibitor with postage of	1.52
Birds of Prey for March 12-14, refused	50.00
Postage on above picture	1.52
Total	$113.04

The above dates were set by the exhibitor.

Decision: That the exhibitor pay to the Exchange within seven days from date $113.04 covering the cost of the refused pictures in question, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case =2, Columbia Pictures vs. I. Zatkin, Parkside, Camden, N. J.

Committees: Same as in Case =1.

Claim: Contracts two in number dated December 9, 1926 for 24 features, 18 played, 6 remain unplayed, and contract dated Feb. 3, 1927 for 26 Screen Snapshots, 4 of which played and 22 unplayed. The first play date under the contracts was November 19, 1927. The date of the last picture played was April 12, 1928. The claim is for Screen Snapshot =8 booked March 16th, $1.50 and feature Swell Head booked March 17th, $12.50, a total of $14.00. The dates were booked by the exhibitor. The contract was signed by R. M. Hodgens and assignment executed by I. Zatkin. The Exchange also asked for the balance of the contract to be completed as the pictures become available.

Decision: That the exhibitor pays to the exchange within seven days from date $14.00 covering Screen Snapshot =8, [fol. 2909] amount $1.50 booked for March 16th, and Swell Head booked March 17th, at $12.50, which were left by the exhibitor, and that the exhibitor complete the balance of the contract as the pictures become available, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of

such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $200.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Columbia Pictures vs. I. Zatkin, Standard, Camden, N. J.

Committees: Same as in Case #2.

Claim: Contract dated March 2, 1927, signed by I. Zatkin for 26 pictures, 3 were played and 23 remained unplayed. The last picture played was March 5, 1928. This is covering Screen Snapshots. The claim is for $1.50, rental value of Screen Snapshots #4, dated for use by the exhibitor for March 19th, and for balance of the contract.

Decision: That the exhibitor pays to the exchange within seven days from date $1.50 covering Snapshot which he did not pick up and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, De Luxe Ex. vs. F. Hollister, Opera House, Giradville, Pa.

Committees: Same as in Case #3.

Claim: Contract dated July 2, 1926, signed by F. Hollister, covering 20 pictures; seven of which played and 13 remained unplayed. Date of last picture played was February 27, 1928. Claim is for three features amounting to

$47.52, not lifted by the exhibitor and for completion of the contract.

Exhibitor was not present.

The pictures in question being Tenacle of the North, booked for use September 8, 1927, $15.84, Money To Burn Dec. 9, $15.84 and Silent Power February 17, 1927, $15.84. These pictures were booked by the exhibitor.

Decision: That the exhibitor pay to the exchange within seven days $47.52 covering the three features which exhibitor booked and did not pick up, and upon the failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any [fol. 2910] contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, F. B. O. vs. E. P. Delahunty and P. F. Morrison, Highland Theatre, Audubon, New Jersey

Committees: Exchanges, Given, Weiner, Bodkin; Exhibitors, Goldman, Price, Perlin.

Claim: This was a claim amounting to $3302.00, representing the unplayed portion of contracts, dated July 27, 1926, Sept. 10, 1927 and June 13, 1927 covering 38 features and 70 short subjects.

The exhibitors were not present

It appeared that the theatre was sold by Sheriff under foreclosure proceedings in January, 1928, and was bought in by the third mortgagee. The theatre prior to this time was owned by P. F. Morrison and E. P. Delahunty acted as manager. The contracts in question were all signed by E. P. Delahunty, acting as manager or agent for P. F. Morrison. Since January, 1928, the theatre has been operated by the third mortgagee, with E. P. Delahunty acting as manager. During the time the theatre was owned by Mor-

rison, Delahunty had authority from Morrison to sign contracts.

Decision: In view of all the surrounding circumstances, the decision of this Board is that the claim of $3302.00 be allowed against E. P. Delahunty, individually, and Morrison, individually, and against Delahunty as agent for Morrison.

Case #6, Masterpiece vs. J. M. Kraus, Grand Theatre, Ephrata, Pa.

Committees: Same as in case #5.

Claim: For $60.00, representing the rental value of three shows left by the exhibitor and for completion of the contract. Contract dated October 24, 1927, signed by J. M. Kraus for 8 pictures. 8 pictures remained unplayed. Playing arrangement "When available." Numerous dates were requested by the exchange and dates finally set in Feb. 23, 1928, for the Slaver March 12, $20.00, Devil Dogs March 19th-20th, Old Code March 26th, $20.00.

Decision: That the exhibitor pay to the exchange within seven days from date the $60.00 covering the above pictures, and that he complete the balance of the contract in accordance with the terms of same, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the perform- [fol. 2911] ance by the exhibitor of this and all other outstanding contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract in oursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #7, Paramount vs. I. Zatkin, Standard Theatre, Camden, N. J.

Mr. Pizor now acting as Chairman.

Committees: Same as in Case #6.

Exhibitor not present.

Claim: This was for three features and a number of comedies, which the exhibitor dated in and failed to lift, amount-

ing in all to $75.00. The contracts were signed July 12, 1927, by I. Zatkin, covering 67 features, 29 played and 38 unplayed. Last picture played on April 2, 1928, "She's a Shiek, and contract of July 27, 1927, for 52 cartoons, one cartoon played and 51 unplayed. Date of last cartoon played March 22, 1928, Koko's Kane. Playing arrangement "Six features a month, and cartoon and comedies, one a week." Dates were set in by the exhibitor and the claim covers the following, which were left by the exhibitor on said dates:

Feb.	29. Last Waltz	$75.00
March	1. Sealing Whacks	2.00
March	7. Honeymoon Hate	20.00
March	8. Koko Plays Ball	2.00
March	9. Open Range	20.00
March	15. Aeronuts	2.00
March	29. Web Feet	2.00
April	5. Koko the Knight	2.00
	Total	$75.00

Decision: That the exhibitor pay to the exchange within seven days $75.00 covering the above pictures, and that he complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #8, Columbia Pictures vs. J. A. Zinkoff, Victoria, Westville, N. J.

Committees: Same as in Case #7.

Exhibitor not present.

Claim: Failure to lift picture booked, and for completion of the contract. Contract dated October 29, 1926, and [fol. 2912] signed by B. A. Harrison and assumed by writ-

ten assignment dated January 24, 1928, signed by J. A. Zinkoff, covering 24 pictures, 14 of which were played and 10 pictures unplayed. All of the pictures were dated on the assignment. Last picture played March 24, 1928. Claim is for $17.50 covering Stolen Pleasures booked March 17 and not lifted.

Decision: That the exhibitor pay to the exchange within seven days $17.50 covering the above picture, and that he complete the balance of the contract in accordance with the terms of the contract, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were postponed until April 20th, 1928:

Masterpiece vs. Carlton Theatres, Williamsport, Pa.

Fox Film vs. Bagastine, Nujoy Theatre, Port Norris, N. J.

L. Chasanov, Elmert Theatre, Phila., vs. Fox Film Ex.

The following cases were marked settled or withdrawn:

F. B. O. vs. M. Hirsh, New Forest Theatre, Phila.

Columbia Pictures vs. L. Litto, Riverside Theatre, Bristol, Pa.

Master Piece vs. J. S. Flood, Flood's Theatre, New Philadelphia, Pa.

Tiffany vs. L. Berman, Savoy Theatre, Bethlehem, Pa.

Columbia Pictures vs. L. Litto, Riverside Theatre, Bristol, Pa.

Jos. Price, Howard Theatre, Philadelphia, vs. De Luxe.

F. B. O. vs. Hippodrome and Franklin Theatres, Philadelphia.

Respectfully submitted.

Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

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[fol. 2913] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, April 20th, 1928, at 11:00 A. M., 1337 Vine Street, Philadelphia, Pa.

Mr. Lewen Pizor acted as Chairman.

Case #1, Universal Ex. vs. A. Feeley, Feeley's Theatre, Hazleton

Committees: Exchanges, Givens, Safron, Weiner; Exhibitors, Fertel, Perlin, Power.

Claim: Contracts dated September 6, 1927, for features and short subjects, and September 1, 1927, covering Reginald Denny's contract signed by A. J. Feeley. 26 Jewels, 10 Collegians, 36-2 reel comedies, 11 features were played, -7 Collegians played and 5-2 reel comedies. The first comedy played Sept. 30, 1927, playing arrangement "Features to start Dec. 1, and to be played at the rate of three a month. Denny contract to be played as available, and comedies one a week."

The exhibitor was represented by his daughter, Miss Feeley, who testified that when the contract was made, the house was on a picture policy and it was understood that they may be compelled to go into a change. Pictures were bought and sold for first run in Hazleton and there were subsequent runs to follow. It was stated that it was impossible to conduct the theatre as a picture house and they were compelled to go into Tabs, Vaudeville and stock. It was impossible for dates to be set on the pictures because of the uncertainties of getting shows. That in the first part of the week they played a feature and a News reel, in addition to the vaudeville, and the second half of the week a feature and comedy. There was no real defence to the claim.

The claim was for refusal to lift 11 shows amounting to $170.00 with $1.68 parcel post, covering two of the shows in question, making a total of $171.68.

Decision: That the exhibitor pay to the Exchange within seven days from date $171.68, representing rental of the pictures unplayed, and that the exhibitor complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with

the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Universal Ex. vs. N. Mari, Colonial Theatre, Bristol

Committees: Same as in Case #1.

[fol. 2914] Exhibitor not present.

Claim: This was a claim for $31.30 representing unplayed portion of the contracts dated August 22, 1927, and Feb. 21, 1927. It appears that the exhibitor closed his theatre without making proper provisions for the completion of the contracts.

Decision: That the exhibitor pay to the exchange within seven days $31.30 covering unplayed portion of contracts.

Case #3, Universal Ex. vs. M. Seltzer, Douglass Theatre, Phila.

Committees: Same as in Case #2.

Claim: For $90.00 representing unplayed portion of contracts dated February 16, 1927, signed by M. Seltzer. Exhibitor closed his theatre without making proper provision for the unplayed portion of the contract.

Decision: That the exhibitor pay to the Exchange within seven days from date $90.00, covering unplayed portion of contracts.

Case #4, Bell Theatre, Woodlawn Ave., Phila. vs. Columbia Pictures

Mr. Wittman now acted as Chairman.

Committees: Exchanges: Givens, Safron, Zagrons; Exhibitors, Pizor, Perlin, Power.

Claim: The exhibitor produced a contract dated July 28, 1927, for 30 pictures. Contract provided as follows: "First run on Woodland Avenue, protection on Darby, Eastwick, Cameo, Doris, Bartram and Lenox. Pictures must be played within 30 days after first run West Philadelphia, otherwise protection on Lenox Theatre is waived." This contract was signed by the former owner and the present owner took over the contracts when he took over the theatre on or about February 1, 1928. At the time the contract was signed the first run had been established at Fays Theatre. That picture on the contract had played first run, subsequently at Fays Theatre and on 52nd Street on or about February 15th. The Bronson Theatre which was not in existence at the time contract was signed was opened and the contract by the Defendant was sold to the Bronson Theatre of the same pictures as covered by the contract of the complainant. The Lady Raffles, Wise Relations, and other pictures on the contract of the complainant were played at the Bronson ahead of the Bell.

The claim was for cancellation of the contract on an alleged breach of contract in permitting the Bronson to play ahead of the Bell. Secondly, for damages in such amount as would be determined by the Board of Arbitration for the alleged breach of contract by the Columbia, and thirdly, such disposition as the Board would make of the entire matter.

The Complainant complained that at the time the contract was signed, the Bronson not being in existence, that the first run was then established by the theatre which played the pictures on his contract first run.

[fol. 2915] Defence was that there was no breach of contract that insofar as the contract sold to the Bell was clearly a subsequent run to the first run, that the exchange had the right to create what was or what was not a first run, regardless of a theatre being in existence at the time the contract with the Bell Theatre was entered into or not; that the Bronson admittedly was not in existence at the time the contract with the Bell was entered into and which came into existence at a subsequent date, was created by the exchange as the theatre for first-run; that the exchange had the right to take any number of pictures out of the contract and put in any number of theatres for first-run; that it was not

limited by the fact that Fays Theatre, or any theatre on 52nd Street had played any pictures on this contract first-run.

Decision of the Board: That the case be dismissed.

Case #5, Columbia Pictures vs. Mr. Fetsko, Peerless, Allentown, Pa.

Committees: Exchanges: Givens, Safron, Zagrons; Exhibitors, Fertel, Perlin, Power.

Claim: It appeared that the exhibitor gave a check for $2.85 in payment of two Screen Snapshots, which check was returned by the bank marked "Account Closed."

Exhibitor not present.

It appears further that the theatre is closed.

Decision: That the exhibitor pay to the Exchange within seven days from date $2.85 covering the two Screen Snapshots.

Case #6, Columbia Pictures vs. H. Fried, Seville, Bryn Mawr, Pa.

Committees: Same as in Case #5.

Exhibitor not present.

Claim: Contract in question dated August 9, 1927, signed by H. Fried, covering 19 pictures, 4 of which had been played, leaving 15 unplayed. Date of last picture played was April 12-13. Dates had been repeatedly requested by the Exchange and on March 16th, exchange set in dates on Isle Forgotten Women for April 2-3, $80.00, Opening Night, April 9-10, $80.00, making a total of $160.00.

Decision: That the exhibitor pay to the exchange within seven days from date $160.00 covering the two pictures not picked up, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each

existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 2916] Case #7, Columbia Ex. vs. Handle & Rovner, Westmont Theatre, Westmont, N. J.

Committees: Same as in Case #6.

Claim: Date of contract Dec. 29, 1926, signed by W. Rapoport, Manager for Handle & Rovner, for 26 pictures, one picture played and 25 remained unplayed. Date of last picture played April 11, 1928. There was no playing arrangement, but were to be played as a vailable. The Exchange requested dates, and on March 16th, set in the following dates:

Sally in Our Alley for April 9th	$35.00
Isle of Forgotten Women for April 2nd	35.00
Fashion Madness for April 10th	20.00
Total	$90.00

These pictures were not lifted and dates were set in for subsequent play dates on five other subjects.

Decision: That the exhibitors pay to the Exchange within seven days from date $90.00 covering the above pictures which were not picked up, and they complete the balance of the contract in accordance with the set dates, and upon failure of the exhibitors to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitors have any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitors of this and all other existing contracts between the exhibitors and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #8, Chasanov, Elmer Theatre, Philadelphia, vs. Fox Film Exchange.

Committees: Exchanges, Weiner, Safron, Bethell; Exhibitors, Perlin, Axler, Fertel.

Claim: This claim was brought by the exhibitor against Fox for furnishing unfit film and asked for damages for loss of business and punitive damages. It appears that on April 6th, 1928, the theatre had booked Chain Lightning and the Exchange sent several prints to the Theatre with instructions to the exhibitor to piece out of all the prints and get one which would be fit to run through the machine. It appeared that the film was in such poor condition that the exhibitor was unable to use it and was compelled to return to his patrons the money which he took in at matinee, and the same thing occurred at night. The exhibitor alleged that $61.40 was returned by him to his patrons. In addition to this, on April 18th, he had booked Loves of Carmen and he on this date was also sent a couple of prints to get one good print from them. That on April 18th, he was compelled to return to his patrons their admission price for matinee and at the evening show the print was in such condition that a Deputy Fire Marshal, being present, refused to permit the exhibitor to continue with his show because of danger of fire, and the exhibitor was compelled to shut his theatre and return the admission money to his patrons. On this date he claims he returned $61.80.

Defence raised by the Exchange was that the exhibitor could not run the film due to the defective heads of his machine and the Exchange requested that an impartial com- [fol. 2917] mittee call upon Mr. Blumberg of the National Theatre Supply Company and ascertain from him the condition of the machines as a result of an examination by the National Supply Company. The committee appointed was Ray Schwartz, representing the exhibitors, and B. Harris, representing the Exchanges, and they reported back to the Board that the jaw of the intermittent sprocket on one machine was broken and that the general condition of one of the machines was such that it was not fit to run film through it.

The exhibitor pointed out the fact that the film was in bad condition, which was substantiated by the fact that the Exchange had sent several prints of the one show from which to piece out one good and runnable print.

The Exchange also disputed the amount returned by the exhibitor to his patrons.

Decision: That the exchange pay to the exhibitor $150.00 within seven days, as damages, covering the loss of business and punitive damages for Exchange serving exhibitor unfit prints.

Case #9, De Luxe Ex. vs. Wm. Blumenberg, Stroud Theatre, Stroudsburg, Pa.

Committees: Exchanges, Givens, Safron, Wiener; Exhibitors: Perlin, Schwartz, Goldman.

Claim: Contracts were dated Sept. 10, 1926, and Sept. 30, 1927, signed by Wm. Blumenberg covering 25 pictures, 10 of which had been played, leaving unplayed 15. Date of last picture played February 23, 1928. Playing arrangement "As available after February 1, 1927". The exhibitor failed to lift a number of shows, which dates were set in by the exhibitor, the amount of the claim being $264.15 covering:

Quarantined Rivals	for March	19-20-21		$50.72
Heroes of the Night	"	"	15-16-17	50.72
San Francisco Nights	"	"	16-17-18	50.72
Mountains of Manhattan	"	"	29-30-31	50.72
Satin Woman	"	"	12-13-14	60.72
Postage				.55

and completion of the balance of the contract.

Decision: That the exhibitor pay the amount of $264.15 within seven days, representing the rental value of the pictures which he failed to lift, and complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the faithful performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $500.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #10, 20th Century Ex. vs. Frank Hollister, Opera House, Girardville, Pa.

[fol. 2918] Committees: Same as in Case #9.

Claim: Contracts dated June 9, 1927, signed by Frank Hollister covering 12 pictures, 5 played and 7 remain- unplayed. Last picture played October 18, 1927. Playing arrangement "As available" and the dates were furnished by the exhibitor. He failed to lift His Rise to Fame March 6th, for $15.00, with $1.25 postage, Closed Gates March 22nd, for $15.00, postage $1.17, making a total of $32.42.

Decision: That the exhibitor pay to the exchange within seven days from date $32.42 covering rental value of the pictures which he failed to lift, and that he complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #11, Liberty Film Ex. vs. S. Podsiadlik, Palace Theatre, Warrior Run, Pa.

Committees: Same as in Case #10.

Claim: Contract in question was dated October 21, 1927, and December 6, 1927, contracts being signed by John Marinos and were assumed by writing under date of March 12, 1928, by the present exhibitor of the Palace Theatre. Contracts covered 85 pictures, 24 played, leaving 61 unplayed. Date of last picture played was March 7-8. Playing arrangement was "One every week". Dates were set in by the exhibitor. The amount of the claim was $29.58 for shows refused. February 8-9, Wreckage and Golden

Stallion #6, $14.79 and Her Big Adventure and Perils of the Jungle #1 for March 21-22 for $14.79 and completion of the contract.

Decision: That the exhibitor pay to the exchange within seven days from date $29.58 covering the above pictures refused, and that the exhibitor complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance with the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #12, Fox Ex. vs. L. Dagastine, Nujoy Theatre, Port Norris, N. J.

Committees: Same as in Case #11.

Claim: Contracts signed Dec. 28, 1927, by Louis Dagastine for 52 comedies, 52 News, played 11 comedies and 13 News and there remain unplayed 41 comedies and 30 News [fol. 2919] Last picture played was comedy of April 18th and News on April 18th. Playing arrangement "One per week on comedies and two per week on News". The exhibitor refused to lift a comedy and News on March 21st, and News on March 22nd, and a comedy and News on March 28th, with C. O. D. charges of 12c, making a total of $18.16.

Decision: That the exhibitor pay to the Exchange within seven days from date $18.16 and that he complete the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of said distributors, demand for its protection and as security for the performance by the exhibitor of this and all

other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #13, Fox Ex. vs. L. Dagastine, Nujoy Theatre, Port Norris, N. J.

Committees: Same as in Case #12.

Claim: Damage of 700 feet of film at the cost of replacement 4c per foot on production Black Jack, which the exhibitor played on March 12, 1928, the replacement cost amounting to $28.00.

Decision: That the exhibitor pay to the exchange within seven days from date $28.00 covering cost of 700 feet of damaged film, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #14, Masterpiece Ex. vs. Carlton Theatres, Inc., Williamsport, Pa.

Committees: Exchanges, Givens, Safron, Weiner; Exhibitors, Perelman, Schwartz, Goldman.

Claim: For $82.00 covering a number of refused shows and charges for holding out and neglecting to return shows in time for subsequent runs. Contracts in question were dated July 3, 1926, and May 18, 1927, and signed by the Carlton Theatres, Inc., covering quite a number of features and two reel comedies. Dates were given by the exhibitor, but exhibitor refused to lift shows. The shows complained

of were to be played at various theatres of the exhibitor corporation. Total amount of claim $82.00, and demand that exhibitor complete contract in accordance with the terms of the contract.

Decision: That the exhibitor corporation pay to the exchange within seven days from date $82.00 and complete the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the deci- [fol. 2920] sion of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #15, Warner Bros. vs. L. Appell, Strand-Capitol Theatre, York, Pa.

Committees: Same as in Case #14.

Claim: Contract in question dated April 22, 1927, and signed by Nathan J. Appell covering six pictures; five of which had been played, leaving unplayed one picture. Date of last picture played October 3-5, 1927. Playing arrangement—"Contract to be completed November 27, 1927." Exchange requested dates on numerous occasions, and on February 22, 1928, set in the date of March 26-27-28 for Wolf's Clothing, rental value of $150.00 and this picture was not lifted by the exhibitor.

Decision: That the exhibitor pay to the Exchange within seven days from date $150.00 covering the cost of the picture refused, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and

each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $500.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were reported withdrawn:
Fox Ex. vs. Rialto Theatre, Pleasantville, N. J.
Pathe Ex. vs. Royal Theatre, New Castle, Delaware.
F. B. O. vs. Germantown Theatre, Philadelphia.
Columbia Ex. vs. Victoria Theatre, Westville, N. J. (2 cases).
Columbia Ex. vs. Riverside Theatre, Bristol, Pa.
The following cases postponed to April 27, 1928:
Columbia Ex. vs. Douglass Theatre, Philadelphia.
Pathe Ex. vs. Highland Theatre, Audubon, N. J.
20th Century Ex. vs. Avenue Theatre, Wilmington, Delaware.
Universal Ex. vs. Egyptian Theatre, Bala, Pa.
Respectfully submitted.
Geo. P. Aarons, Secretary Joint Board of Arbitration.
GPA:ASH.

[fol. 2921] Minutes of the Meeting of the Joint Board of Arbitration held Friday, April 27, 1928, at 11:00 A. M. 1337 Vine St., Philadelphia, with Mr. M. Landau presiding

Case #1. Pathe Ex. vs. E. P. Delahunty and Patrick F. Morrison, Highland Theatre, Audubon, New Jersey

Committees: Exchanges, Bodkin, Safron, Zagrons; Exhibitors, A. B. Smith, Pizor, Wax.

Claim: A series of contracts bearing dates from October 21, 1926 to November 7, 1927, covering 380 pictures, 187 played, 193 unplayed, amounting to $3665.00. The theatre was closed about Jan. 1, 1928, without any provisions having been made for the unplayed portion of the contracts.

Decision: In view of all the surrounding circumstances, the decision of this Board is that the claim of $3665.00 be allowed against E. P. Delahunty, individually, and P. F. Morrison, individually, and against E. P. Delahunty as agent for P. F. Morrison.

Case #2, 20th Century Ex. vs. M. Budrick, Avenue Theatre, Wilmington, Delaware

Committees: Same as in Case #1.

Exhibitor was present.

Claim: Contracts were dated September 29 and August 2, 1927, signed by Budrick for 8 pictures, 3 played leaving 5 unplayed. Last picture played Nov. 24, 1927. Exhibitor did not lift Through the Wilderness April 12th, 1928, in the amount of $25.00.

Exhibitor had no defence.

Decision: That the exhibitor pay to the Exchange within seven days from date $25.00 covering Through the Wilderness and complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Warner Bros. vs. E. P. Delahunty and Patrick F. Morrison Highland Theatre, Audubon, New Jersey

Committees: Same as in case #2.

Claim: Series of contracts dated May 27, 1926, and August 8, 1927 involving value of pictures to the sum of [fol. 2922] $2080.00. The theatre closed about January 1, 1928, without making provisions for the unplayed portion of the contracts.

Decision: In view of all the surrounding circumstances, the decision of this Board is that the claim of $2080.00 be allowed against E. P. Delahunty, individually, and P. F. Morrison, individually, and against E. P. Delahunty as agents for P. F. Morrison.

Case #4, East Coast Theatres Co. Palace Theatre, Berlin, N. J., vs. United Artists Corporation

Committees: Exchanges, Goodman, Safron, Zagrons; Exhibitors, Perlin, Stamper, Power.

Claim: For $500.00 damages, $350.00 for loss of business and $150.00 for prestige. Contract in question was dated June 25, 1926, covering The Circus at the Palace Theatre, Berlin, N. J. Contract provided that exhibitor was to supply play date within 60 days after notice of availability by distributor. The exhibitor received availability notice on March 19, 1928, for play dates May 17-19 incl. The picture was dated in by the exhibitor within day or so after receiving availability notice.

It appears that the Clementon Theatre at Clementon, New Jersey, which was not in existence at the time the contract was signed, had a contract with United Artists for this same picture, and the said contract had a protection clause against Berlin and Blackwood. At the time the East Coast dated in the picture they were not aware of the fact that Clementon had bought the picture. Play dates assigned to Clementon were April 5-6, 1928.

There had been in existence the Palm Garden Theatre at Clementon, and is still in existence. Further that East Coast on buying pictures for Berlin never specified in any of the contracts protection against Clementon, but it had been established by custom that Berlin was always to play ahead of Clementon; this referring to the Palm Garden Theatre.

Upon East Coast learning that Clementon had picture booked for April 5-6, East Coast pulled their dates for May. Clementon Theatre was not built nor opened more than a year after the signing of the contract by East Coast, and nobody had any knowledge that a theatre was to be built at Clementon.

Defence: That there had always been a theatre at Clementon and that United Artists had sold direct to this theatre, the Palm Garden; that the contract is silent as to any protection against Clementon; that there are now two theatres in operation at Clementon.

Further, Mr. Stiefel, representing East Coast, stated that the Palm Garden Theatre at Clementon had 400 seats. That Mr. Bodkin on April 1, 1928, had offered East Coast

day and date with the Clementon Theatre. Mr. Epstein further testified on behalf of East Coast that Miss McCaffery, booker of United Artists, said that she would endeavor and did procure as a fact, a print which could be used at the Berlin house on Saturday and Monday, April 7th and 9th, following the run at the Clementon Theatre, and this would be N. C.

[fol. 2923] This was refused by Mr. Stiefel. Mr. Von Tilzer, local manager of the United Artists, stated that no one in Philadelphia had any authority to give any N. C., without permission from New York. Miss McCaffrey further verified the statement of Mr. Epstein in reference to procuring of a print for use at Berlin April 7th and 9th.

Decision: It was the decision of the Board that the claim of East Coast be dismissed and that the exhibitor go through with the contract as written, as there was no violation of the terms of the contract shown.

Case #5, Educational Ex. vs. E. Eggenweiler, Orpheum, East Mauch Chunk, Pa.

Committees: Bodkin, Safron, Zagrons, Exchanges; Wax, Stamper and Smith, Exhibitors.

Exhibitor present.

Claim: This was a claim for damaged film. Claim was brought on the basis of 250 feet of the Felix Cartoons Daze & Nights used by the exhibitor Feb. 25, 1928, amounting to $100.00. Cameo Comedy "Green Eyed Love" 950 feet used by exhibitor on March 31st, damage $38.00, and Felix Cartoon Draggin' the Dragon 166 Ft. played March 31st, damage $6.64. The Exchange further testified that Green Eyed Love was a brand new film and had never been run in any other theatre and this also applied to Draggin' the Dragon and it was necessary to replace the entire film of Green Eyed Love, in order to send it to subsequent exhibitors, and the total damage was $54.64.

A committee from the Board then inspected the film in question and the report of the Committee showed that 250 feet only was damaged on Green Eyed Love to the amount of $10.00, and 166 feet of Draggin' the Dragon to the amount of $6.64.

Defence: That the film in question was not damaged in the machine of the exhibitor.

Decision: That the exchange be awarded $16.64 for the damaged film as found damaged by the committee of the Board of Arbitration, this amount to be paid within seven days, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, Fox Ex. vs. Jos. Emashovsky, Globe, Nanticoke, Pa.

Mr. Pizor now acting as Chairman.

Committees: Exchanges, Landau, Bodkin, Safron; Exhibitors, A. B. Smith, Wax, Power.

[fol. 2924] Exhibitor was present.

Claim: Contract was dated October 20, 1926, signed by Steve Yurko, and assignment taken over by Emashovsky covering 51 features, 42 of which had played, leaving 9 unplayed. Last picture played April 13, 1928. Contracts in question provided that three pictures a month be played and on the Mix and Jones contracts, one every 7 weeks, which would make the playing arrangements on all the contracts one every week.

The exhibitor left the following pictures:

March	16, Hills of Peril	$10.65
"	23, Circus Ace	10.72
"	30, Is Zat So	10.79
April	6, Cradle Snatchers	10.72
"	20, Good as Gold	10.65
		$53.53

Defence: That at the time he took over the theatre that the theatre was overburdened with pictures, that he endeavored to have the pictures on the contract with Fox set

at the rate of two a month. Fox refused to agree to this. It appeared that the first picture on the contract played March 7, 1927.

Decision: That the exhibitor pay $53.53 to the Exchange within seven days from date, representing the five pictures not lifted by him; that he play the balance of the pictures on the contract at the rate of one a month and that he have the privilege of redating the five pictures in question at the rate of one a month and that all the pictures being dated at the rate of one a month to start June 1, 1928, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade. That the exchange is to supply exhibitor with good prints on all of the 9 subjects, and in the event the exchange cannot supply good prints on the subjects, then the exchange shall substitute other pictures not played by this exhibitor, which are in good condition.

The following cases were marked settled:

Columbia Pictures vs. L. Linker, Bartram Theatre, Phila.
United Artists vs. Carlton Theatres, Williamsport, Pa.
Universal Ex. vs. B. F. Savage, Colonial, Phila.
Columbia Ex. vs. H. Fried, Seville Theatre, Bryn Mawr, Pa.
L. Litto, Riverside, Bristol, Pa. vs. F. B. O.
Fox Ex. vs. Strand Theatre, Clayton, N. J.

[fol. 2925] The following cases were withdrawn:

F B O vs. Samuel Stiefel, Stanley-Stiefel Corp. Elite, Phia.
20th Century Ex. vs. F. Bickhardt, Alma, Phila.
Columbia Ex. vs. M. Budrick, Avenue Theatre, Wilmington, Del.

20th Century Ex. vs. H. Perelman, Lehigh and West Allegheny Theatres.

Martin Hirsh, Forrest Theatre, Phila. vs. F B O.

Columbia Ex. vs. Douglass Theatre, Phila.

The following cases were postponed to Friday, May 4th, 1928:

United Artists vs. Tioga Theatre, Philadelphia.

Columbia Pictures vs. Mrs. Thomas, Summit Theatre, Harrisburg.

United Artists vs. M. Seltzer, Douglass Theatre, Phila.

Universal Ex. vs. Egyptian Theatre, Bala, Pa.

Respectfully submitted.

Geo. P. Aarons, Secretary, Joint Board of Arbitration.

GPA: ASH.

[fol. 2926] Minutes of the Joint Board of Arbitration Meeting Held Friday, May 11th, 1928, at 1337 Vin- Street, Philadelphia Penna.

Mr. S. Wittman acted as Chairman.

Case #1, Liberty Film Corp v. Carlton Theatres, Inc., Williamsport, Penna.

Committees: Exchanges, Givens, Safron, Bodkin; Exhibitors, A. B. Smith, Pizor, Power.

Claim: Contract dated Nov. 16, 1927, covering 24 pictures, 15 of which had played, leaving 9 unplayed. This covered the Newport Theatre, Newport, Pa. The exhibitor played a number of the pictures and did not pay for the same, amounting to $20.18, including postage. The claim is for $20.18 and fulfillment of the contract in accordance with the terms of the contract.

Decision: That the exhibitor pay to the Exchange within seven days from date $20.18, and go through with the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and

as security for the performance by the exhibitor of this and all other outstanding contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Columbia Pictures Corp. v. N. Mari, Colonial Theatre, Bristol, Pa.

Committees: Same as in Case #1.

Claim: Two contracts dated July 28, 1927, and August 10, 1927, signed by N. Mari, covering 34 pictures, 6 of which played leaving 28 unplayed. Last picture played January 16-17, 1928. Theatre has been closed for about two months and no provision was made for the unplayed portion of the contract amounting to $662.50.

Decision: That the exhibitor pay to the Exchange within seven days from date $662.50 covering unplayed portion of the contract.

Case #3, Columbia Pictures vs. M. Seltzer, Douglass Theatre, Philadelphia.

Committees: Same as in Case #1.

Claim: Contracts dated Feb. 25, 1927 and Dec. 13, 1927, signed by M. Seltzer, covering 54 pictures, 11 played, leaving 43 unplayed. Last picture played March 7, 1928. Theatre closed without making provision for the unplayed portion of the contracts, amounting to $340.00.

Decision: That the exhibitor pay to the Exchange within seven days from date $340.00 covering unplayed portion of the contract.

[fol. 2927] Case #4, De Luxe Exchange v. Jesse Douglass, Paschall Theatre, Phila., Pa.

Committees: Exchanges, Givens, Safron, Wiener; Exhibitors, A. B. Smith, Goldman, Axler.

Claim: Contract dated March 2, 1928, signed by J. Douglass covering 16 pictures, one picture played, leaving 15 unplayed. Last picture played April 14, 1928. Theatre closed about April 21, without making any provision for

the unplayed portion of the contract, amounting to $155.00.

Decision: That the exhibitor pay to the Exchange within seven days from date $155.00 covering the unplayed portion of the contract.

Case #5, Universal Ex. v. Pappas Bros., Bijou Theatre, Milton, Pa.

Committees: Same as in Case #4.

Claim: Two contracts both dated April 30, 1926, signed by P. Pappas for Pappas Bros., covering 52 Stern Brothers, 28 of which had been played, leaving 24 remaining unplayed. Twelve Gumps, 11 played, leaving 1 unplayed. The Stern Brothers last picture played April 6, 1928, last of the Gumps May 2, 1928. Playing arrangement on the Stern Bros. "One a week," and on the Gumps "As available" bother starting Sept. 1, 1926. Numerous dates had been requested, and finally dates were set February 11, 1928. Six subjects were refused between March 31 and May 7th, amounting to $32.82, including postage, for which the claim was filed, and completion of the balance of the contract, in accordance with the terms of the contract.

Decision: That the exhibitor pay to the Exchange within seven days from date $32.82 covering the six subjects refused, plus postage, and complete the balance of the contracts in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor, or any other Distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has an contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were postponed to Friday, March 18th, 1928:

Universal Exchange vs. C. H. Stoer, Moorlyn Theatre, Ocean City, N. J.

Franklin Amusement Co. Phila. (Franklin & Hippodrome) vs. Paramount Exchange.

Columbia Pictures vs. Apollo Amusement Co., Capital, Lebanon, Pa.

The following cases were withdrawn:

De Luxe Ex. vs. Strand Theatre, Camden, N. J. (I. Zatkin.)

Pathe Ex. vs. I. Zatkin, Parkside Theatre, Camden, N. J.

De Luxe Ex. vs. Frank Wolf, Sr., Doughty's Pier, Ocean City, N. J.

Columbia Pictures vs. Broadway Theatre, Wilmington, Delaware.

Respectfully submitted.

Geo. P. Aaron, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 2928] Minutes of the Meeting of the Joint Board of Arbitration Held on Friday, May 4th, 1928, at 11:00 A. M., 1337 Vine St., Philadelphia, with Mr. S. Wittman, Presiding

Case #1, Tiffany-Stahl Productions vs. Lennox Amusement Co., Grant Theatre, Phila., Pa.

Committees: Exchanges, Weiner, Safron, & Bodkin; Exhibitors, Steumpfig, Power, & Perlin.

Claim: Contract dated June 15, 1927, signed by Columbus Stamper as manager of the Lennox Amusement Co., for 20 pictures, and they played two. Claim for $60.00, covering Girl From Gay Paree, to have been played on April 11, 1928, and Out of the Storm to have been played 14, 1928. Exhibitor furnished dates.

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days from date, $60.00, covering Girl From Gay Paree, and Out of the Storm, and complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the award, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade with whom the exhibitor has any contracts, may at the option of each one

of such Distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each Distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Liberty Film Corporation vs. Jesse C. Douglass, Paschall Theatre, Phila.

Committees: Exchanges, Weiner, Safron, & Bodkin; Exhibitors, Steumpfig, Power, & Rappaport.

Claim: Contract was signed Dec. 9, 1927, by Hyman, and was assumed by Douglass on an assignment, covering 9 pictures. Amount involved $57.50. Last picture was played on April 11, 1928. Closed theatre without making proper provision for contracts.

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days from date, $57.50, covering unplayed portion of contract.

[fol. 2929] Case #3, United Artists Corp. vs. M. Seltzer, Douglass Theatre, Phila.

Committees: Exchanges: Weiner, Safron & Blofson: Exhibitors: Steumpfig, Power & Rappaport.

Claim: One contract covering Night of Love, Oct. 17, 1927. Play date set by exhibitor for March 19th and 20th, 1928. Amount involved $20.00. Exhibitor closed theatre without making proper provision for contracts.

Decision: That the exhibitor pay to the Exchange within seven days, $20.00, covering unplayed portion of contracts.

Case #4, Columbia Pictures Corp. vs. Mrs. J. M. Thomas, Summit Theatre, Harrisburg, Pa.

Committees: Same as in Case #3.

Claim: Contracts were signed Aug. 31, 1926, Jan. 11, June 6, June 20, Aug. 23, 1927, respectively, covering 85 pictures. Played 31 pictures, leaving 54 unplayed. Last picture played Feb. 29th. Theatre closed latter part of

March, without making provision for unplayed portion of contract, amounting to $454.00.

Exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days, $454.00, covering unplayed portion of contracts.

Case #5, F. B. O. Pictures Corp. vs. Carlton Theatres, Inc., Williamsport, Pa.

Committees: Exchanges: Weiner, Safron & Blofson; Exhibitors: Steumfig, Cohen & Price.

Claim: Claim brought against the Carlton Theatres, Inc., for following: 8 pictures not lifted for Ritz Theatre, Hughesville, Pa., amounting to $51.57; 6 pictures at Lyceum, Montgomery, amounting to $49.38; 10 pictures at Carlton, Watsontown, amounting to $45.32; 11 pictures at New Theatre, Mifflinburg, amounting to $56.07; 7 pictures at Newport Theatre, Newport, amounting to $25.25.

Exhibitor was not present.

Exchange produced a letter under date of March 1, 1928, in which the Carlton Theatres, Inc., wrote as follows in part: "We agree to play or pay for two features a week, and four two reel subjects per month, and two single reel subjects per month, starting the week of March 5, 1928, in Watsontown, Mifflinburg, covering existing contract with your office.'

[fol. 2930] "It is further agreed that we will play or pay for three features per month, four two reel subjects per month, and two single reel subjects per month, starting March 5th, in Newport, Hughesville, and Montgomery.

"The above agreement will stand under any and all conditions, and in the event that it is impossible for us to play these pictures on the regular playing arrangements, we will pay for the pictures on the original date."

Signed by Milton Forman, as General Manager of the Carlton Theatres, Inc.

The Carlton Theatres, Inc., neglected to carry out the provision of the contract, and the provisions of the agreement of March 1st, as above indicated.

Decision: That the exhibitor pay to the Exchange within seven days, the following:

Ritz Theatre, Hughesville	$51.57
Lyceum Theatre, Montgomery	49.38
Carlton Theatre, Watsontown	45.32
New Theatre, Mifflinburg	56.07
Newport Theatre, Newport	25.25

and complete balance of contract in accordance with terms thereof. Upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Board of Trade with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection, and as security for the faithful performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $200.00 for each town under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, F. B. O. Pictures Corp. vs. M. Wax, Royal Theatre, Philadelphia

Committees: Same as in Case #5.

Claim: Contracts dated Aug. 24, 1927, signed by M. Wax, for 54 pictures, 11 pictures played, and 43 unplayed. Date of last picture played May 1, 1928. Playing arrangement on contract as affirmed. The exhibitors furnished dates on Loves of Ricardo March 26th and 27th, at a rental value of $75.00. Hook and Ladder #9 March 14th and 15th, rental value $75.00. Exhibitor failed to lift shows on said dates. Claim for $150.00 and completion of contract, in accordance with the terms thereof.

Exhibitor not present.

[fol. 2931] Decision: That the exhibitor pay to the Exchange within seven days, $150.00, and complete balance of contract in accordance with terms thereof. Upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may, at the option of each one of such distributors, demand for its protection, and as security for the faithful performance by the exhibitor of this and all other

existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $500.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts, as held by the members of the Philadelphia Film Board of Trade.

Case #7, F. B. O. Pictures Corp. vs. Wm. Blumenberg, Stroud Theatre, Stroudsburg, Pa.

Committees: Same as in Case #6.

Claim: Contract in question dated Nov. 23, 1926, signed by Wm. Blumenberg. Covered 12 pictures; 11 played, and 1 picture unplayed, being the picture in question—Mother. First picture on contract played June 23 and 24, 1927. Date was furnished by the exhibitor. Failed to lift picture Mother involving in addition to the rental, an expenditure of $1.50 for postage; making a total claim of $51.57.

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within seven days, $51.57, representing rental value of the picture which he failed to lift. Upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may, at the option of each one of such distributors, demand for its protection, and as security for the faithful performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were continued for one week:

Columbia Pictures Corp. vs. Broadway Theatre, Wilmington, Del.

F B O Pictures Corp. vs. Standard Theatre, Camden, N. J.

The following cases were withdrawn:

United Artists Corp. vs. Tioga Theatre, Phila.

Universal Film Ex. vs. Egyptian Theatre, Bala.

The following case was settled:

F B O Pictures Corp. vs. Lehigh & W. Allegheny Theatres, Phila.

—— ——, Secretary.

GPA.D

[fol. 2932] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, May 18th, 1928, at 1337 Vine Street, at 11.00 A. M., Daylight Saving Time

Mr. S. Wittman acted as Chairman.

Case #1, Frank Romano, Keystone Theatre, Weatherly, Pa. vs. De Luxe Film Company, Inc.

Committees: Exchanges, Landau, McFadden, Given; Exhibitors, Geo. Kline, Pizor, Perlin.

Claim: This was a claim presented by the exhibitor against the DeLuxe Exchange for failure to have picture The Silent Avenger arrive in time for the exhibitor to show it on April 30, 1928, with the result that the house was dark. The damage was for such amount as would be awarded by the Board of Arbitration. The picture was a feature of seven reels at the price of $7.50.

At the same time the Exchange brought a claim against the exhibitor for $7.50, plus 9¢ postage, claiming that the exhibitor failed to lift the show in question. There was evidence produced that the box with the film was received by the Philadelphia post-office in time for delivery to Weatherly. There is nothing on the box to indicate that it had been received at the Weatherly post-office.

The exhibitor presented a letter from the Postmaster of Weatherly showing that no film shipments had been refused by the exhibitor for a month prior to May 2, 1928.

The Exchange further showed that it did all things under the contract that it was supposed to do, i. e., delivered the box to the post-office for delivery.

Upon conclusion of the evidence, the Board went into discussion and rendered the following decision:

Decision: That the claim of the exhibitor be dismissed inasmuch as the Exchange fulfilled their contract in delivering to the post-office for shipment to Weatherly in ample time for use by the exhibitor on April 30th. Further that the exhibitor is to pay $7.50 rental of the picture within seven days, and he shall have the right to use the picture,

without further charge, at any subsequent date, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such Distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, De Luxe Film Exchange vs. J. McTague, McTague Theatre, Coaldale, Pa.

[fol. 2933] Committees: Exchanges, Landau, McFadden, Given; Exhibitors, Fertel, Goldman, Perlin

Claim: Claim was based on contract dated June 25, 1926, signed by John McTague, covering 8 pictures, one of which had been played and seven remain unplayed. The date of the picture played was April 16, 1928. Contract provided playing arrangement "As available". Exhibitor dated Modern Daughters for use on April 30, 1928, and failed to lift the picture. Claim was for $7.50 rental of the picture and $2.34 postage, plus completion of the contract.

Decision: It was the decision of this Board that the exhibitor pay to the Exchange within seven days from date $7.50 plus $2.34 postage covering the picture not paid for, and that the exhibitor complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of this Board, then the Distributor or any other Distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts may at the option of each one of such Distributors demand for its protection and as security for the performance by the exhibitor of this and all other outstanding contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #, De Luxe Film Ex. vs. Lennox Amusement Co., Inc., operating the Grant Theatre, Philadelphia, Pa.

Committees: Same as in Case #2.

Claim: Contract in question dated July 5, 1927, signed by the Lennox Amusement Company for 30 pictures, 5 of which had played and 25 remaining unplayed. The theatre closed without making proper provision for the unplayed portion of the contract amounting to $625.00.

Decision: That the Lennox Amusement Company pay to the DeLuxe Exchange within seven days from date $625.00 covering the unplayed portion of contract dated July 5, 1927.

Case #4, Franklin Amusement Co. vs. Paramount Exchange. (Franklin and Hippodrome Theatres, Philadelphia)

In this case the exhibitor was represented by his manager, Charles Smith, who requested that the case be postponed for one week until the proprietor be present. This postponement was allowed.

Case #5, Liberty Film Corp. vs. Roxy Theatre, Inc. Easton

Committees: Exchanges, Zagron, McFadden, Given; Exhibitors, Geo. Kline, Pizor, Perlin.

Claim: Contracts in question were dated November 14, and August 16, 1927, signed by I. Krohn as President of the Roxy Theatre Co. The Secretary of the Board reported [fol. 2934] that he had received the following letter:

"Attention of George P. Aarons, Esq., Sec.

GENTLEMEN: Receipt is acknowledged of your letter of the 10th inst., addressed to my self, Roxy Theatre, Inc. and Roxy Theatre, regarding the claim of the Liberty Film Corp., to be heard on Friday, May 18th. I desire to inform you, as your Board already knows, that whatever contracts were entered into with the distributors, were made in the name of the Roxy Theatre, Inc. the company which operated the Roxy Theatre. My only interest in the business was that of an Officer. There is, therefore, no occasion on the part of the distributors to make me a party to any litigation.

In connection with the instant claim, I wish to state that there is nothing to arbitrate. The corporation does not deny the indebtedness, there is no dispute concerning the claim, the only difficulty being that the corporation is insolvent and is out of business. Any action that might be taken by the Board, under the circumstances, would be futile, improper and illegal.

Following the closing of the Theatre, I informed the parties with whom the Theatre had accounts, that although the corporation was insolvent, I would endeavor to pay its obligations out of my own pocket as soon as I will be able to straighten out my affairs. The corporation is indebted to me in a considerable amount of money, in fact it has cost me a young fortune. There are more immediate pressing obligations that I must meet before I can reach the few smaller claims of the members of the film industry. I regret exceedingly that any of the exchanges should be obliged to wait for their money, but frankly, I can do nothing for them at this time, and they will have to be patient. Although I have every reason to be antagonistic, I do not assume such an attitude. Every enterprise that I have been identified with in the past has met its obligations and I hope there will be no impairment of this record.

I trust you will bring this letter to the attention of the parties interested.

Yours very truly, (Signed) Israel Krohn."

The theatre closed without making proper provision for the completion of the contracts, upon which there were 34 comedies and 30 single reel subjects remaining unplayed, to the value of $394.60.

Decision: That the Roxy Theatre, Inc., pay to the Exchange within seven days from date $394.60 covering unplayed portion of the contract.

[fol. 2935] Case #6, Fox Exchange vs. Harry Colmer, Colonial, Beach Haven, N. J.

Committees: Exchanges: Given, Landau, McFadden; Exhibitors: Perlin, Goldman, Pizor.

Claim: Contract dated July 8, 1926, only one picture in question on the contract being Seventh Heaven. After

repeated requests, Exchange dated in the picture on March 23, 1928, for use by the exhibitor on April 16th, 1928. Picture was refused by the exhibitor, rental value of which was $75.00 and $2.84 parcel post charges incurred.

Decision: That the Exchange be paid $75.00 for Seventh Heaven plus $2.84 covering parcel post, by the exhibitor; such payment to be made within seven days from date and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor, or any other distributor of the Philadelphia Film Board of Trade with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were withdrawn:

First National vs. I. Zatkin, Standard Theatre, Camden, N. J. Vitagraph, Inc. vs. Jesse C. Douglass, Paschall Theatre, Phila. Columbia Pictures vs. J. McTague, McTague Theatre, Coaldale, Pa. Fox Film Corp. vs. Comerford Theatres Liberty, Hazleton, Pa. Masterpiece Attractions vs. Babis and Bender, Grant Theatre, Phila. Universal Ex. vs. Morlyn Theatre, Ocean City, N. J. Pathe Ex. vs. I Yatkin, Parkside Theatre, Camden, N. J. F B O Pictures Corp. vs. Broadway, Wilmington, Delaware. Liberty Ex. vs. Babis and Bender, Grant Theatre, Phila.

The following cases were postponed until Friday, May 25th, 1928:

Howard Theatre, Phila. vs. F B O Pictures Corp. Masterpiece Attractions vs. F. Hollister, Opera House, Girardville. Columbia Pictures vs. W. Steumpfig, Germantown Theatre, Phila. Columbia Pictures vs. Apollo Amusement Co. Capital Theatre, Lebanon, Penna.

Respectfully submitted.

Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 2936] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, May 25th, 1928, at 11:00 A. M., 1337 Vine Street, Phila.

Mr. S. Wittman acted as chairman.

Case #1, Fox Exchange vs. B. F. Savage, Colonial Theatre, Phila.

Committees: Exchanges, Applegate, Mansell, Safron, Exhibitors, Goldman, Pizor, Perlin.

Exhibitor was present.

Claim: This was a claim for $100.00 for a number of features and comedies on a contract alleged to have been executed on August 18, 1927, and the claim also included a picture Gateway of Moon to the value of $20.00, upon the following facts: In August 1927, salesman for the Fox Exchange presented to the exhibitor a work sheet covering the entire product for 1927-28, which included 57 features and 26 comedies. The exhibitor subsequently signed contracts covering all of the features, with the exception of 26, and two special productions, Carmen and East Side. These contracts were subsequently signed with the name of the exhibitor by an employee of the Fox Film Exchange. The case was brought upon these alleged contracts. It further appeared that the production Singed, which appeared on the special productions contract of 26 pictures not signed by the exhibitor was delivered to the exhibitor on January 4, 1928. It further appeared that it was not until January 20th, that the Exchange returned to the exhibitor the approved contracts, which approved contracts included the two in question. All other contracts the exhibitor admitted having signed, and one of which had a production titled Luna Park, which title was subsequently changed to Gateway of the Moon. This picture Gateway of the Moon was set in by the Exchange for use on May 24th, 1928, at the value of $20.00. The exhibitor did not play this picture under the belief that it was on the contracts, which were not signed by him. Further, there were contracts signed by the exhibitor covering comedies and the face of the contract showed that the exhibitor purchased but 50% of the comedies, and the claim of the exchange was on the basis of the entire output of comedies for 1927-28.

Upon hearing all the evidence, the Board made the following decision:

Decision: It was the decision of this Board that the two contracts in question, which were not signed by the exhibitor, are invalid, and that the claim of the exchange based on these two contracts be dismissed, and further, that the exhibitor be responsible, however for 50% of the number of comedies as covered by the comedy contract, and further, that the exhibitor pay, or play and pay the feature Gateway of the Moon listed on the contract as Luna Park, within 45 days from date, and upon failure of the exhibitor to comply with the decision of the Board then the Distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance of the contract by the exhibitor of this and all other existing contracts between the exhibitor and each [fol. 2937] distributor member of the Philadedelphia Film Board of Trade a sum not to exceed $200.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, First National Ex. vs. H. Axler, Bellevue Theatre, Phila.

Committees: Exchanges, Weiner, Applegate, Kohtz; Exhibitors, Goldman, Power, Geo. H. Kline.

Exhibitor was present.

Claim: The contract in question was signed by H. Axler on November 9, 1927 covering 24 pictures, 14 of which had been played, leaving 10 pictures unplayed. The date of last picture played was May 10th, 1928. Contract provided that the exhibitor play three pictures a month, if available, beginning January 1, 1928, and ahead of the Broadway and Majestic. It appeared that the exhibitor played 5 pictures on the contract in the month of December 1927, and further, between January 1, 1928, and May 1, 1928, had played 9 pictures, making a total number of pictures played prior to May 1st, of 14 pictures. The claim

was for $52.50 covering three pictures set in by the Exchange abd completion of the contract.

Defence of the exhibitor was that the contract provided that it was to begin January 1, 1928, at the rate of three pictures per month and that he having played 14 pictures on the contract, regardless of the same having been played prior to January 1st, that he was not in default of the contract.

The contention of the exchange was that the exhibitor was booked one picture prior to May 1st, on the contract; that he had only played two pictures in May and was required to play three, and, therefore, he was back two pictures.

Decision: That the exhibitor pay $17.50, representing the rental value of Broadway Nights, date set in by the Exchange for April 25th, Just Another Blonde at $15.00 for use by the exhibitor April 27th, that the exhibitor have the privilege of re-booking these pictures, and that the exhibitor complete the balance of the contract at the rate of three pictures a month, beginning June 1, 1928, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, F B O vs. H. Axler, Bellevue Theatre, Philadelphia, Pa.

Committees: Exchange, Weiner, Applegate, Zagrons; Exhibitors, Goldman, Power, Geo. H. Kline.

[fol. 2938] Claim: Contract in question was dated June 25, 1927, and signed by H. Axler, covering 36 pictures, 11 of which had played, leaving 25 unplayed. Last picture played was April 23-24, 1928.

Exhibitor was present.

Contract provided further "First run in Kensington, after Iris, Marrowgate, Lafayette and Diamond, but ahead of Aurora and Kent." "These pictures are to be played as soon as ready in zone, at the rate of one or more a week, the same applies to short subjects." The first picture played on the contract was December 7-8, 1928, and the exhibitor had played 11 pictures to date, with 22 pictures still available. The Loves of Ricardo, which was booked for use by the exhibitor for May 4-5, 1928, was not lifted by the exhibitor, the rental value of which was $35.00.

The exhibitor offered to the Board the following: That he would pay the $35.00, the rental value of the feature Loves of Ricardo, and that he would play the balance of the pictures in accordance with the terms of the contract, and that he further waives any protection he might have on Loves of Ricardo, and accordingly, the Board made the following decision:

Decision: That the exhibitor pay to the Exchange within seven days from date $35.00 covering the feature the Loves of Ricardo, and that the exhibitor play the balance of the pictures in accordance with the terms of the contract, and further, that any protection the exhibitor might have had on Loves of Ricardo is waived, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor members of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Masterpiece Exchange vs. F. Hollister, O. H., Girardsville, Pa.

Committees: Same as in Case #3.
Exhibitor not present.

Claim was for $76.73 for pictures refused by the exhibitor to the number of four, and included return transportation postage charges on certain other pictures, total amount being $76.73.

The exhibitor in a letter addressed to the Board of Arbitration admitted his default and agreed to pay for the shows.

Decision: That the exhibitor pay to the Exchange within seven days from date $76.73, representing the amount of the claim, and that he complete the contract in accordance with the terms of the contract, and upon his failure to comply with the decision of the Board, then the Distributor or any [fol. 2939] other Distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the faithful performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Masterpiece Ex. vs. Ocean City Casino Co., Moorlyn Theatre, Ocean City, N. J.

Committees: Exchanges, Weiner, Applegate, Zagrons; Exhibitors, Goldman, Power, Wax.

Claim: Contracts in question dated October 10, 1927, covering 53 pictures, 5 of which had been played, leaving 48 unplayed. Date of last picture played March 30, 1928. Contract provided as follows: "Exhibitor guarantees to use 30 of the above pictures, if features not available by June 15, 1928, the same are cancelled." Numerous dates were requested by the Exchange and finally on April 17, 1928, the exchange set in four dates:

May 2.	Temptations of a Shop Girl	$25.00
May 17.	Comrades	25.00
May 9.	Shamrock and Rose	25.00
May 24.	Polly of the Movies	25.00

Exhibitor failed to lift shows.

Exhibitor was not present.

Decision: That the exhibitor pay $100.00 to the Exchange within seven days from date for the four shows in question, and that exhibitor complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each member of the Philadelphia Film Board of Trade, the sum of $250.00, in pursuance to the arbitration clause contained in this and all other existing contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, Liberty Exchange vs. Lehigh Theatres, Philadelphia

Committees: Same as in Case #5.

Claim: For $16.40 to cover the cost of replacement of 410 feet of film of picture called Cat's Nine Lives, which the exhibitor exhibited on May 9th, 1928, and which he failed to return.

Exhibitor not present.

Decision: That the exhibitor pay to the Exchange within [fol. 2940] seven days from date $16.40 covering the 410 feet of film of Cat's Nine Lives which the exhibitor failed to return to the Exchange, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were postponed until Friday, June 1st, 1928:

F. B. O. vs. Franklin Amusement Co., Philadelphia.

Columbia Pictures vs. H. Moskowitz, Gem Theatre, Phila.

DeLuxe Exchange vs. C. Vrontisis, Palace Theatre, Pen Argyl, Pa.

F. B. O. vs. Dreamland Theatre, Lock Haven, Pa.

Masterpiece Exchange vs. H. Axler, Bellevue Theatre, Philadelphia.

Howard Theatre, Phila., vs. F. B. O.

Pathe Exchange vs. I. Zatkin, Parkside Theatre, Camden, N. J.

The following cases were withdrawn:

Universal Exchange vs. Carlton Theatres, Inc., Williamsport, Pa.

Columbia Pictures vs. Apollo Amusement Co., Capitol, Lebanon, Pa.

Franklin Amusement Co., Philadelphia, vs. Paramount Exchange.

Liberty Film Co. vs. Gloria Theatre, Norristown, Pa.

Respectfully submitted.

—— ——, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 2941] Minutes of Meeting of Joint Arbitration Board Held Friday, June 1st, 1928, at 11:00 A. M., 1337 Vine Street, Philadelphia, Pa.

Case #1, Warner Bros. vs. A. J. DeFiore, Broadway, Wilmington

Mr. Lewen Pizor acted as Chairman in this case.

Committees: Exchanges, Applegate, Wiener, McFadden; Exhibitors, Power, Perlin, Goldman.

Exhibitor not present.

Claim: Date of contract was June 22, 1925, signed by A. J. DeFiore, covering 35 pictures, leaving one unplayed. Date of last picture played was February 13, 1928. The picture in question Hell Bent For Heaven, rental value of $20.00, was dated for use by the exhibitor on May 19th, and refused.

Decision: That the exhibitor pay to the Exchange within seven days from date $20.00 covering the rental of refused

picture, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Masterpiece Ex. vs. H. Axler, Bellevue Theatre, Philadelphia

Mr. H. Given acted as Chairman in this case.

Committees: Exchanges, Applegate, Wiener, Zagrons; Exhibitors, Power, Goldman, Pizor.

Exhibitor was present.

Claim: This was based on a contract dated June 29, 1927, signed by H. Axler for 12 pictures, three played, nine remained unplayed. Date of last picture played was April 9-10, 1928. There were no playing arrangements. Dates were given by the exhibitor. The claim as presented by the Exchange was for $65.00, representing two pictures, Old Code, May 3rd, and What Price Love, May 29th. The exhibitor raised an objection to the $65.00 claim, contending that he had only to defend against the $35.00 claim insofar as he had not received notice covering the claim of What Price Love. He was sustained in this by the Board.

His defense to the picture Old Code was based on the allegation that the contract was for four 1927-28 issues of James Oliver Curwood, whereas Old Code was on the 1926-27 issue. The Exchange testified that Old Code was released in January 1928 in Philadelphia, and the Exchange contended further that the contract merely said 4 James Oliver Curwoods, without any identification as to year.

[fol. 2942] Decision of the Board was that the exhibitor pay $35.00, representing the rental value of Old Code, within seven days from date, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any con-

tracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the Exhibitor and members of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as signed by the members of the Philadelphia Film Board of Trade.

Case #3, Columbia Pictures vs. Mrs. S. B. Steinberg, Eclipse Theatre, Eddystone, Penna.

Mr. Pizor acted as Chairman in this case.

Committees: Exchanges, Given, Applegate, Zagrons: Exhibitors, Power, Schwartz, Goldman.

Claim: This was based on a contract dated January 31, 1928, signed by S. B. Steinberg, for 30 pictures—23 remain unplayed; date of last picture played being April 27th, 1928. The theatre was closed about May 1, 1928, without any provisions being made for the balance of the unplayed portion of the contract, amounting to $192.00.

Decision: That the exhibitor pay to the Exchange within seven days from date $192.00 covering the unplayed portion of the contract.

Case #4, Columbia Pictures vs. Ocean City Casino Co., Inc., Operating the Moorlyn Theatre, Ocean City, New Jersey

Same committees and Chairman as in Case #3.

Defendant was not present, nor represented.

Claim: Contract was dated March 27, 1928, signed by C. H. Stoer, President, for the Ocean City Casino Co., covering 21 pictures, none of which had been played. The playing arrangement was "Exhibitor guarantees to play or pay for a minimum of five subjects between March 27th and June 15th, 1928, and a minimum of six pictures between June 15th and September 1st, 1928". The Exchange had requested many dates, and finally set in the following dates:

Warning, May 9-10	$37.50
Siren, May 16-17	37.50
Fashion Madness, May 23-24	37.50
That Certain Thing, May 31	37.50
Total	$150.00

The Exchange further claim was for completion of the contract covering the balance of the subjects, in accordance with the terms of the contract, and on the dates as scheduled.

Decision: That the exhibitor pay to the Exchange within [fol. 2943] seven days from date $150.00 covering the four shows not used as booked, and that he complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, F. B. O. vs. George A. Huff, Dreamland Theatre, Lock Haven, Pa.

Mr. Pizor acted as Chairman.

Committees: Exchanges, Wiener, Applegate, Zagrons; Exhibitors, Power, Schwartz, Goldman.

Claim: Contracts in question were dated January 6, 1927, covering 60 pictures, upon which remains to be played 30 pictures, and contract dated June 9, 1927, covering 56 pictures, which contract has 50 pictures remaining to be played. The last picture played on the first contract was January 27-28, 1928, and on the second contract February 27-28, 1928. The playing arrangements "Features to be played on an average of one a week and comedies on an average of one a week. Single reels on an average of every othr week, starting September 15, 1927, until completion of the contract."

The Exchange had requested numerous dates, and on April 13th, the following dates were set by the Exchange—

Sir Lumber Jack, April 30, May 1	$12.50
Laddie, May 7-8	40.00

and the following pictures were dated by the Exhibitor:

Little Mickey Grogan	$40.00	May	13-14
Best Wishes	2.00	"	"
Nothin' Doin'	10.00	April	16-17
Border Whirlwind	15.00	"	"

Amounting to $119.50.

The exhibitor did not lift the shows, and the further claim of the exchange was for completion of the contract, in accordance with the terms of the contract, and upon hearing all the evidence the Board made the following decision:

Decision: That the exhibitor pay to the Exchange within seven days from date $119.50 covering the shows refused and that he complete the contracts in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board [fol. 2944] of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, Universal Ex. vs. Geo. A. Huff, Dreamland, Lock Haven, Pa.

Exhibitor not present.

Committees and Chairman: Same as in Case #5.

Claim arouse out of a series of contracts as follows:

(a) covering Complete Service Contract,
(b) News
(c) Specials
(d) Denny

(a) contract covered 56 weeks, (b) contract 63 even and 63 odd.

(c) contract 3 and (d) contract 4. All of these contracts being dated on and about June 1, 1927, on which there remained unplayed the following:

(a) contract 28 weeks, (b) contract 35 even and 35 odd, (c) contract 3, (d) contract 3. Playing arrangement is as follows: "C. S. C. every week, News 2 a week." No playing arrangement on the others. "In case Geo. A. Huff sells the Dreamland Theatre the purchaser must assume all existing contracts with Interstate Film Company." There were numerous dates requested and finally set in by the Exchange on April 22nd, and May 2, 1928, and the claim is for the following: $282.58, which included 5 C. S. C. amounting to $250.00, Parcel post $7.58, and $25.00 covering 10 News at $2.50, and completion of the contract, in accordance with the terms of the contract.

Decision: That the exhibitor pay to the Exchange within seven days from date $282.58 covering the amount of the claim, and that he complete the contracts in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor had any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were withdrawn:

United Artists vs. Moose Theatre, Tremont, Pa.

Columbia Pictures vs. Palace Theatre, Coatesville, Pa.

Pathe Ex. vs. Clementon Theatre, Clementon, N. J.

F. B. O. vs. Broadway Theatre, Pitman, N. J.

F. B. O. vs. New Colonial Theatre, Philadelphia.

[fol. 2945] F. B. O. vs. Orpheum Theatre, Carlisle, Pa.

F. B. O. vs. City Theatre, Williamsport, Pa.

De Luxe Ex. vs. Stanley-Stiefel Corp. (Pearl Theatre), Phila.

Liberty Film vs. Carlton Theatres, Inc., Williamsport, Pa.

Liberty Ex. vs. Gloria Theatre, Norristown, Pa.

Pathe Ex. vs. I. Zatkin, Parkside Theatre, Camden, N. J.

The following cases were postponed to June 8, 1928:

Pathe Ex. vs. H. Elliott, Palm Theatre, Phila.

F. B. O. vs. J. M. Krouse, Grand Theatre, Ephrata, Pa.
F. B. O. vs. Geo Resnick, Cayuga Theatre, Phila
F. B. O. vs. H. Axler, Bellevue Theatre, Phila.
H. Axler, Bellevue Theatre, Phila., vs. F. B. O.
F. B. O. vs. Franklin Amusement Co., Phila
Columbia Pictures vs. H. Moskowitz, Gem Theatre, Phila.
De Luxe Ex. vs. C. Vrontisis, Palace Theatre, Pen Argyl, Pa.

The following case marked settled:
Jos. Price, Howard Theatre, Phila., vs. F. B. O.

Respectfully submitted.

Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 2946] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, June 8th, 1928, at 11:00 A. M., 1337 Vine St., Phila.

Mr. Pizor acting as Chairman.

Case #1, Fox Ex. vs. S. Stiefel, Columbia Theatre, Phila.

Committees: Exchanges, Applegate, Wiener, McFadden; Exhibitors, Price, Goldman, Perlin.

Claim: Refusal of the feature Wolf Fangs. Contract dated 8/4/27, signed by Samuel H. Stiefel, covering 38 features, 25 features played, leaving 13 unplayed. Last picture played May 30, 1928. Playing arrangement 4 per month. This picture was originally set for March 28-29. Date was changed by exhibitor to May 2nd, and then refused by the exhibitor, rental value $35.00. Exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $35.00 covering the production Wolf Fangs, which was refused by the exhibitor, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade; with whom the exhibitor has any contracts, may at the option of each one of such Distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not

to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Vitagraph, Inc., v. M. Seltzer, Douglass Theatre, Phila.

Committees: Exchanges, Applegate, Wiener, Zagrons; Exhibitors, Price, Goldman, Perlin.

Claim: Contracts dated 9/9/27, signed by M. Seltzer, 47 pictures, 6 played, 41 unplayed. Last picture played 11 24 27. Theatre closed about 3/14/28, making no provisions for the unplayed portion of the contract, amounting to $580.00.

Decisions: That the exhibitor pay to the Exchange within seven days from date $580.00 covering unplayed balance of contract.

Case #3, Pathe Exchange vs. H. Moskowitz, Gem Theatre, Phila.

Committees: Exchanges, Applegate, McFadden, Zagrons; Exhibitors, Price, Goldman, Perlin.

Claim: Contract signed 10/1/26 by H. Moskowitz for 37 pictures, 21 played, 16 unplayed. Last picture played 3 3 28. Exhibitor closed his theatre without making provision for the performance of the unplayed balance of the contract, amounting to $235.00.

Decision: That the exhibitor pay to the Exchange within seven days from date $235.00, covering the unplayed balance of the contract.

[fol. 2947] Case #4, Pathe Exchange vs. H. Moskowitz, Gem Theatre, Phila.

Committees: Same as in Case #3.

Claim: Contracts date 4/13/27 and 5/27/26, signed by H. Moskowitz, for 104 News reels and Fables, played 78, leaving 26 unplayed. Last picture played 2/24/28. Closed theatre without making provision for the unplayed portion of the contracts, amounting to $61.75.

Decision: That the exhibitor pay to the Exchange within seven days from date $61.75 covering unplayed portion of contracts.

Case #5, Columbia Pictures vs. H. Moskowitz, Gem Theatre, Phila.

Committees: Same as in Case #4.

Claim: Contracts dated May 27, 1926 and April 8, 1927, for 50 pictures, 18 played, 32 unplayed. Date of last picture played February 17, 1928. Exhibitor closed theatre without making provision for the unplayed portion of the contracts, amounting to $37.50, representing 25 Screen Snapshots, and $105.00, representing features, or a total of $142.50.

Decision: That the exhibitor pay to the Exchange within seven days from date $142.50 representing unplayed portion of the contracts.

Case #6, F B O vs. Albert Weiss, Elm Theatre, Philadelphia, Pa.

Committees: Applegate, McFadden, Zagrons, representing Exchanges; Price, Goldman, Perlin, representing Exhibitors.

Claim: Date of contract Sept. 19, 1927, signed by Albert Weiss for 42 pictures, 11 played, leaving 31 unplayed. Date of last picture played June 5, 1928. There was no playing arrangement. Exhibitor refused Dead Man's Curve May 19, 1928, at $15.00, and Breed of Courage May 12, 1928 at $10.00, both being exhibitor's dating.

Decision: That the exhibitor pay to the Exchange within seven days from date $25.00, representing rental value of the two pictures refused on dates set by exhibitor, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #7, H. Axler, Bellevue Theatre, Phila. vs. F B O.

Mr. S. Wittman now acting as Chairman.

[fol. 2948] Committees: Exchanges, Applegate, Wiener, Zagrons; Exhibitors, Pizor, Goldman, Resnick.

Claim: Was for such amount as would be awarded by the Board of Arbitration upon the facts to be presented. The exhibitor had booked for use at his theatre the production Shanghaied for use May 26, 1928. On May 11th, 1928, the exhibitor went to the Exchange and requested that this date be moved out and asked the booker when the Howard Theatre had the picture booked and was informed that it was booked for June 2nd. The exhibitor then told the booker that he would waive protection of the Howard Theatre, but would play the picture day and date with the Howard Theatre for June 2nd. The contract in question provided for protection against the Howard Theatre and the Exchange had always given seven days protection. He subsequently learned that the Howard Theatre played the picture May 30th, 1928, and he asked damages from the Exchange for permitting the Howard Theatre to play the picture before June 2nd, in violation of this agreement.

Defense of the Exchange was that the original booking was changed from May 26th, to June 2nd, and that on May 11th, the Howard Theatre had booked the production to play May 30th, that the Bellevue Theatre waived his protection and nothing was said at the time of playing day and date with the Howard Theatre. Mr. Perlin was called as a witness by F B O and testified that the Howard Theatre had booked Shanghied for use May 30th, on May 11th.

Decision: Under the circumstances surrounding the entire transaction touching the changing of dates, it is the decision of this Board that $50.00 be awarded to the exhibitor as damages for the Exchange allowing and permitting the Howard Theatre to play the subject Shanghied prior to June 2, 1928. The award of $50.00 to be paid by the Exchange within seven days from date.

Case #8, F B T vs. Cayuga Theatre, Philadelphia, Pa.

Committees: Exchanges, Applegate, Wiener, Zagrons; Exhibitors, Perlin, Goldman, Fertel.

Exhibitor was present.

Claim: Contract was signed September 1, 1927, by George Resnick, for 36 pictures, 19 played and 17 remain unplayed. Last picture was played June 2, 1928. The playing arrangement on the contract was "As available." The Exchange testified that on February 21st, they had sent availability notice to the exhibitor, setting forth that Red Riders of Canada, the picture in question was available for exhibitor's use on March 10th, 1928. That on December 2, 1927, a decision of the Board had been made on the same contract, wherein the exhibitor was called upon to play each picture on the contract not later than 30 days after the same shall have been played at the Carman Theatre.

[fol. 2949] On March 30th, the Exchange then set in the date of the picture for use by the exhibitor for April 12th. The exhibitor denied having received the availability notice of February 21st, 1928, and the Exchange produced a registered receipt, which showed that the letter of February 21st, had been refused by the exhibitor. The exhibitor admitted having received the letter of March 30th, and the reason he did not set in the date to play on April 12th, was because the playing time was too short, that he did not have an opportunity of rearranging his programs. It further appeared that the Carman Theatre played this particular production February 15th and 16th.

Decision: That the exhibitor pay to the Exchange within seven days from date $25.00, representing the rental value of Red Riders of Canada, and upon of the the exhibitor to comply with the decision of the Board, then the Distributor, or any other distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the faithful performance by the exhibitor of all other existing contracts between himself and each member or the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under such existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The case of Felley's Theatre, Hazelton, Pa., against the Universal Film Exchange was called, but the Exhibitors Committee on the Board of Arbitration refused to sit on this case, and accordingly, the case was not presented any further.

The following cases were marked withdrawn:

20th Century Ex. vs. Hill's Theatre, Paulsboro, N. J.
M-G-M vs. Lehigh Theatre, Phila.
M-G-M vs. Standard Theatre, Camden, N. J.
De Luxe Exchange vs. Pearl Theatre, Phila.
De Luxe Exchange vs. Palace Theatre, Pen Argyl, Pa.
Warner Bros. vs. Rose Theatre, Phila.
Columbia Pictures vs. Standard Theatre, Camden, N. J.
Columbia Pictures vs. Parkside Theatre, Camden, N. J.
F B O vs. Opera House, Girardville, Pa.
F B O vs. Flood's Theatre, New Philadelphia, Pa.
F B O vs. Lenox Theatre, Phila.
F B O vs. West Allegheny Theatre, Phila., Pa.
F B O vs. Bellevue Theatre, Phila.
F B O vs. Franklin Amusement Co., Phila., Pa.
Universal Ex. vs. Elks Theatre, Mahanoy City, Pa.
Fox Exchange vs. Strand Theatre, Newquehoning, Pa.

The following cases were postponed to Friday, June 15th, 1928:

F B O vs. J. M. Krouse, Grand Theatre, Ephrata, Pa.
Masterpiece vs. H. Axler, Bellevue Theatre, Phila.
Universal Ex. vs. Family Theatre, New Milford, Pa.
Universal Ex. vs. Happy Hour Theatre, Great Bend, Pa.

Geo. P. Aarons, Secretary.

GPA:ASH.

[fol. 2950] Minutes of the meeting of the Joint Board of Arbitration held Friday, June 15th, 1928, 11.00 A. M., Daylight Saving Time, 1337 Vine Street, Philadelphia, Penna.

Mr. Lewen Pizor acted as Chairman.

Case #1, F B O vs. F. Bickhardt, Alma Theatre, Philadelphia

Committees: Exchanges, Blofson, Zagrons, Applegate; Exhibitors, Goldman, Perlin, Price.

Exhibitor not present.

Claim: Date of contract February 6, 1927, signed by F. Bickhardt, for 46 pictures, 40 played, 6 remain unplayed. Date of last picture played was June 6, 1928. Exchange had requested numerous dates and finally dates were set in April 24, 1928, for Collegiate May 10, 1928, $7.50 and Breed of Courage May 17, 1928, $7.50, total of $15.00.

Decision: That the Exchange receive the $15.00 within seven days from the exhibitor covering the two pictures, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor, or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Masterpiece Ex. vs. H. Axler, Bellevue Theatre, Phila.

Committees: Same as in Case #1.

Exhibitor not present.

Claim: Contract dated June 29, 1927, signed by H. Axler, for 12 pictures, 3 played, 9 unplayed, date of last picture played was April 9-10. Dates were given by the exhibitor. Exhibitor refused What Price Love, May 29th, 1928, $30.00. Claim is for $30.00, and in addition, to complete the balance of the contract in accordance with the terms thereof.

Decision: That the exhibitor pay to the Exchange within seven days from date $30.00 covering rental value of What Price Love, which exhibitor refused, and upon failure of the exhibitor to comply with the decision of the Board,

then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such Distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadalphia Film Board of Trade.

[fol. 2951] Case #3, 20th Century Exchange vs. F. Bickhardt, Alma Phila.

Committees: Same as in case #2.
Exhibitor not present.

Claim: Contract dated August 25, 1926, signed by F. Bickhardt, for 36 pictures, and 36 pictures played. This claim was for the rental of picture Striving for Fortune used by the exhibitor Sept. 16, 1927, and not paid for, to the value of $7.50.

Decision: That the exhibitor pay to the Exchange within seven days from date $7.50 covering the rental value of Striving for Fortune, picture used and not paid for, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor, or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Fox Exchange vs. L. Berman, Savoy Theatre, Bethlehem, Pa.

Committees: Exchanges, Blofson, Korson, Applegate; Exhibitors, Goldman, Perlin, Price.

Claim: Contracts signed August 25, 1927, and January 16, 1928, signed by L. Berman for 42 pictures, 25 played, 17 unplayed. Date of last picture played April 23rd, 1928. Playing arrangement "4 per month." Exhibitor refused Gateway of the Moon on April 26th, rental value of which picture was $250.00. In payment of the picture the exhibitor gave a check in amount of $250.00, which check was returned by the bank unpaid.

Decision: That the exhibitor pay to the Exchange within seven days from date $250.00, the rental value of the picture Gateway of the Moon, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $500.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Tiffany-Stahl Ex. vs. Chas. Tremont, Gloria, Morristown, Pa.

Committees: Exchanges, McFadden, Korson, Applegate; Exhibitors, Goldman, Perlin, Price.

Exhibitor not present.

Claim: Based on destruction of 2497 feet of Bachelor's Paradise used by the exhibitor; damage amounting to $99.88. [fol. 2952] A statement was read from Joseph Braddomie, the operator, who stated that on Wednesday, May 30th, the night the picture was played, that a relief operator was on duty, and that the machines were damaged, and it was at this time that the film was damaged.

Decision: That the exhibitor pay to the Exchange $99.88, representing destruction of 2497 feet of the film Bachelor's Paradise, within seven days, and in the event that the cost of replacing the damaged film, with the attendant cost to the exchange, be less than the amount of the award, that the Exchange reimburse the exhibitor with this difference; the

Exchange however being entitled to all expenses it has been put to, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor, or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such Distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case # 6, Chas. Tremont, Gloria, Norristown, Pa., vs. Tiffany-Stahl.

This case was dismissed because the exhibitor was not present to press his claim.

The following cases were withdrawn:

Warner Bros. vs. Strand Theatre, York, Pa.
Columbia Pictures vs. Orpheum, Carlisle, Pa.
DeLuxe Ex. vs. Forrest Theatre, Treverton, Pa.
Fox Ex. vs. Elm Theatre, Phila.
First National vs. Fox Theatre, Bordentown, N. J.
F. B. O. vs. Grand Theatre, Ephrata, Pa.

The following cases were postponed till 6/22/28:

F. B. O. vs. Columbia Theatre, Phila.
F. B. O. vs. Elite Theatre, Phila.
Universal Ex. vs. Family Theatre, New Milford, Pa.
" " " Happy Hour Theatre, Great Bend, Pa.

The following cases postponed to 7/13/28:

Tiffany-Stahl vs. Majestic, Sharokin, Pa.
" " " " Tamaqua, Pa.
" " " " Gettysburg, Pa.

Respectfully submitted.
Geo. P. Aarons, Secretary, Joint Board of Arbitration.
GPA:ASH.

[fol. 2953] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, June 22nd, 1928, at 11.00 A. M., Daylight Saving Time, at 1337 Vine Street, Philadelphia, Pa.

Mr. S. Wittman acted as Chairman.

Case #1, Fox Ex. vs. I. Zatkin, Standard Theatre, Camden, N. J.

Committees: Exchanges, Wiener, Applegate; Exhibitors, Perlin, Fertel.

It was agreed by both parties that the matter be heard by two arbitrators.

Exhibitor was present.

Claim: Date of contracts June 22, 1927, signed by I. Zatkin for 58 pictures, 21 played and 37 unplayed. The last picture played was May 19th, 1928, Sharp Shooters—playing arrangement "As available," each contract having a different number per month, which averaged five pictures per month on the entire contracts. Contracts to be finished Sept. 15, 1928. Exchange requested dates and finally dates were set in on May 11th, on the following pictures, which were refused:

Love Hungry, May 26th	$15.00
Woman Wise, May 30th	15.00
Come to My House, June 1st	15.00
Soft Living, June 8th	15.00
Soft Living, June 8th	15.00
Girl in Every Port, June 15th	15.00

and dates have been set on the following two pictures:

Square Crooks, June 29th	$15.00
Why Sailors go Wrong, June 30th	15.00

Defense: That on one contract on which all these features appeared, only provided for two a month and that the exhibitor was only booked two pictures, that he had submitted May play dates to the Exchange in September, which dates were not confirmed until April of the following year, and the exhibitor further said that he had booked pictures in the meantime.

Decision: That the exhibitor pay to the Exchange within seven days from date $75.00, representing the rental value of the five pictures refused, and that he play or pay for the pictures as set, and that he complete the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such Distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 2954] Case #2, De Luxe Ex. vs. Nathan Appell Enterprises, Operating the Scenic Theatre, York, Pa.

Committtees: Exchanges, Wiener, Zagrons, Applegate; Exhibitors, Price, Pizor, Fertel.

Claim: Contract dated October 18, 1927, signed by L. J. Appell covering 6 pictures. None played. One of the six is dated for October. Playing arrangement to be given after shows are available. Letters had been sent to the exhibitor and on April 19th, the Exchange set in the following pictures, which were refused:

Blondes by Choice, May 28-29	$50.00
Cheer Leader, June 4-5	50.00
Satin Woman, June 11-12	50,00

Decision: That the exhibitor pay to the Exchange within seven days from date $150.00 covering the three refused pictures, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of

Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Masterpiece Ex. vs. F. Hollister, O. H., Girardville, Pa.

Committees: Exchanges, Wiener, Zagrons, Applegate; Exhibitors, Schwartz, Price, Rosinsky.

Claim: Contracts were dated 10/12/27 and 10/26/27 and 12/20/27, signed by F. Hollister, covering 27 features and 52 2-reel comedies. There had been played 10 features and 23 2-reel comedies. Date of last picture played May 21, 1928. Playing arrangement was one picture per week on each contract. Dates were furnished by the exhibitor for the following shows:

May 7th, Back Stop	$16.50
May 14th, Say It With Diamonds	14.00
May 26th, Girl Friend	6.50

Also parcel post on picture Life of An Actress April 23rd, 56¢ amounting to $37.56. Letter was produced from the exhibitor in which he admitted that he would pay for the pictures in question. The Exchange also requested that exhibitor be compelled to complete the balance of the contract in accordance with the terms of the contract. In addition to the above claim, the Exchange filed a claim of $25.00 covering Where's My Hat, which was booked for use by the exhibitor on May 13th, and the picture was not returned to the Exchange until May 21st. This element of the claim was postponed for one week, in order to ascertain if the pic-
[fol. 2955] ture had ever been delivered to the exhibitor.

Decision: That the exhibitor pay to the Exchange within seven days from date $37.50, covering the three pictures refused, plus parcel post charges, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such Distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts

between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The $25.00 claim brought by the Exchange for hold out has been postponed for one week to determine whether show was ever received by the exhibitor.

Case #4, Universal Ex. vs. Happy Hour, Great Bend, Pa.

Mr. Pizor now acting as Chairman.

Committees: Exchanges, Wiener, Zagrons, Applegate; Exhibitors, Schwartz, Price, Rosinsky.

Claim: This was a claim arising from a contract for C. S. C. dated March 30, 1928, signed by Clarence Hoaglin. It appeared that the theatre closed sometime in April, without making provisions for the unplayed portion of the contract, amounting in all to $806.23.

Decision: That the exhibitor pay to the Exchange within seven days from date $806.23 covering the unplayed portion of the contract.

Case #5, Universal Ex. vs. Family Theatre, New Milford, Pa.

Committees: Same as in Case #4.

Claim: This was a contract dated March 30, 1928, for C. S. C. signed by C. D. Hoaglin and the theatre closed sometime in April, 1928, without making provisions for the unplayed portion of the contract, amounting to $729.00.

Decision: That the exhibitor pay to the Exchange within seven days from date $729.00 covering the unplayed portion of the contract.

Case #6, Universal Ex. vs. H. B. Wiseman, Rockdale, Rockdale, Pa.

Committees: Same as in Case #5.

Claim: Contracts were dated 5/5/28 covering Inter-[fol. 2956] national News, and C. S. C. Cobtract for 52 issues of the News and 26 weeks of C. S. C. Played 5 News and 5 C. S. C., for which he did not pay, amounting to $55.50.

It appeared that the exhibitor gave the exchange a check in amount of $18.50 on partial payment, which check was returned marked "No Account."

Decision: That the exhibitor pay to the Exchange within seven days from date $18.50 covering the N. G. check, and in addition that he pays $37.00 representing the shows that he played and did not pay for, and that the exhibitor complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #7, Pathe Ex. vs. Brown & Sons, Bronson Theatre, Phila.

Mr. Wittman now acted as Chairman.

Committees: Exchanges, Applegate, Wiener, Sagrons; Exhibitors, Goldman, Perlin, Rosinsky.

Exhibitor was present.

Claim arose from a contract dated 2/2/28, signed by A. Brown for four pictures, two of which had been played and two remained unplayed. Date of last picture played was April 19-21, 1928. The playing arrangement was "As available." The Exchange on numerous dates, beginning with February 22, 1928, had requested dates and on May 7th, 1928, the Exchange set in the date on Hidden Aces for May 28, 29, and 30, rental value of $250.00, and on March 10th, the exhibitor notified the Exchange that he would not play the picture because the picture was not as guaranteed by the salesman, and then again a month later stated in a letter that in order to avoid difficulties he would play the picture in September, and the Exchange refused to accept the date of September.

Defense was that prior to the signing of the contract, the salesman of the exchange, John Golder, told the exhibitor in the presence of witnesses upon the screening of a picture Golden Crown, that the other pictures on the contract were of the same calibre as Golden Crown, and were just as long as Golden Crown and that if the exhibitor did not like the other pictures as he screened them, he would not have to pay for them. In this the exhibitor was supported by Albert Aiken, who stated that Golder said if Brown did not like the pictures, Brown would not have to take the pictures to follow or to pay for them. Also a witness, M. Hyman, stated that Golder said in case pictures are not good for you, you don't have to pay for them. These witnesses testified that the statements were made at the screening of the picture Golden Crown, and the contract was executed by the exhibitor.

[fol. 2957] John Golder was called and he flatly denied these allegations and stated that nothing was said at the time that the exhibitor would not have to pay for the pictures if he did not like them.

Upon consideration of all the evidence, the Board was unable to reach a decision and the Board advised the Secretary, to request the American Arbitration Association to appoint a seventh arbitrator to hear the issue and decide the case.

Case #8, American Legion, Newport Post #177, Newport, Pa., vs. Liberty Film Corp.

The complaint of the Newport Post against Liberty Film Corp. came before this Local Board of Arbitration and the Post was not represented. The exhibitor members of the committee refused to consider the case, insofar as the American Legion Post #177 is not a member of the Motion Picture Theatre Owners of Eastern Pennsylvania, and because the Newport Post #177 of the American Legion is not a regular constituted exhibitor, but is an non-theatrical institution.

The following cases were marked withdrawn:

Jay Emanuel vs. United Artists and L. Berger, operating New Ideal and Empress Theatres.

Fox Ex. vs. F. W. Brown, Amusement Hall, Canadensis, Pa.

F. B. O. vs. Interurban Theatre Co., Narberth Theatre, Narberth, Pa.

New Broadway vs. United Artists and Howard Theatre.

Bellevue Theatre, Phila., vs. United Artists and Howard Theatre.

Fox Ex. vs. L. Berman, Savoy Theatre, Bethlehem, Pa.

F. B. O. vs. Columbia Theatre, Phila.

F. B. O. vs. Elite Theatre, Phila.

The following cases were postponed to June 29, 1928.

Masterpiece Attractions vs. Stanley-Stiefel Corp., Columbia and York Theatres, Phila.

Pathe Ex. vs. John McTague, McTague's Theatre, Coaldale, Pa.

Penn Productions vs. Stanley-Stiefel Corp., Columbia, 24th Street and Elite Theatres, Phila.

De Luxe Ex. *vs.* A. J. DeFiore, Broadway, Wilmington, Del.

Respectfully submitted,

Geo. P. Aarons, Secretary, Joint Board of Arbitration.

GPA:ASH.

[fol. 2958] Minutes Meeting of the Joint Board of Arbitration Held Friday, June 29th, 1928, 1337 Vine Street, at 11.00 A. M.

Mr. Lewen Pizor acted as Chairman.

Case #1, Masterpiece Ex. vs. Rev. Thos. Bartol, St. Anthony's Church, Ranshaw, Pa.

Committees: Exchanges, Applegate, Wiener, Quinleven; Exhibitors, Goldman, Perlin, Price.

Claim: Contract was dated 12/29/26, signed by Rev. Thos. Bartol, for 34 pictures, 22 played, 12 remain unplayed. Last picture played was June 16, 1928. Dates were furnished by the exhibitor. Exhibitor refused One Hour of Love on June 2, 1928 $10.00 Dumb Romeo June 2nd, 1928, $5.00, parcel post $1.50, amounting to $16.50. Exchange asked for completion of the contract.

Decision: That the exhibitor pay to the Exchange within seven days from date $16.50 covering the two pictures refused, plus parcel post charges, and that he complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Masterpiece vs. F. Hollister, O. H. Girardville, Pa.

Committees: Same as in Case #1.

This case was a postponed case from June 22nd, and was a claim for $25.00 for holding out comedy Where's My Hat, which was shipped to the exhibitor on May 11, 1928, for use by the exhibitor May 13, 1928. The picture was returned to the Exchange May 22, 1928, and the C. O. D. was paid to the Exchange on May 25, 1928, in amount of $5.37, the rental price of the comedy, which had been shipped parcel post C. O. D. The claim was for the number of days which picture was held out.

Decision: That the exhibitor pay to the Exchange within seven days from date $25.00 covering hold-out on comedy Where's My Hat, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under [fol. 2959] each existing contract, in pursuance to the arbitration clause contained therein.

Case #3, Penn Productions vs. Stanley-Stiefel Corp., operating Columbia Theatre, Elite Theatre, and 24th Street Theatre, Philadelphia

Committees: Exchanges, Applegate, Wiener, Quinleven; Exhibitors, Goldman, Perlin, Rosinsky.

(a) Columbia Theatre, Contract was dated December 17, 1927, for seven pictures, three played, four unplayed. Date of last picture played was January 9-10, 1928. Numerous requests were made for dates and on April 24, 1928, the following dates were set and the pictures were not lifted by the exhibitor.

May 16-17.	Million Dollar Mystery	$40.00
May 23-24.	Cruise of the Hellion	40.00
May 30-31.	Silent Hero	40.00
June 6-7.	Heroes in Blue	40.00
		$160.00

Decision: That the exhibitor pay to the exchange within seven days from date $160.00 covering the four pictures which he refused, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

(b) Elite Theatre. This contract was signed December 17, 1927, covering six pictures, one played and five remain unplayed. Date of last picture played on this contract was January 10-11, 1928. Dates were set in April 24, 1928, for the following pictures on the following dates, and were refused.

May	21-22. Million Dollar Mystery	$40.00
"	28-29. On the Stroke of 12	40.00
June	4-5. Cruise of the Hellion	40.00
June	11-12. A Light in the Window	40.00
June	18-19. Heroes in Blue	40.00
		$200.00

Decision: That the exhibitor pay to the exchange within seven days from date $200.00 covering the five shows refused, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option [fol. 2960] of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Phidalephia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

(c) 24th Street Theatre. Contract dated December 17, 1928, for 8 pictures, one played, 7 remain unplayed. Last picture played January 11, 1928. Dates were set in April 24, 1928. The following shows were refused on set dates:

May	28. Million Dollar Mystery	$12.50
June	4. On the Stroke of 12	12.50
"	11. Cruise of the Hellion	12.50
"	18. A Light in the Window	12.50
"	25. Heroes in Blue	12.50
		$62.50

Decision: That the exhibitor pay to the Exchange within seven days from date $62.50 covering the five pictures refused, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor

of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Columbia Pictures vs. H. B. Wiseman, Rockdale Theatre, Rockdale, Pa.

Committees: Exchanges, Applegate, Safron, Quinleven; Exhibitors, Goldman, Perlin, Rosinsky.

Claim: Date of Contract April 27, 1928, contract was signed by H. C. Wiseman covering 60 pictures, 8 played, 52 unplayed. Last picture played June 1, 1928. Playing arrangements "Two a week." Exhibitor had given a check in amount of $11.50 in payment of feature The Tigress and Screen Snapshot #25, which check was returned unpaid. The following subjects were not lifted on the dates booked:

June 8.	Alias the Lone Wolf	$10.00
	Snapshot #26	1.50
" 15.	Sally in Our Alley	10.00
	Snapshot #101	1.50
" 23.	College Hero	10.00
	Snapshot #104	1.50
" 28.	Stage Kisses	10.00
	Snapshot #102	1.50
		$57.50

[fol. 2961] Decision: That the exhibitor pay to the Exchange within seven days from date $57.50 covering the pictures refused by him, and upon his failure to comply with the decision of the Board, then the Distributor or any other Distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00

under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, De Luxe Exchange vs. A. J. De Fiore, Broadway, Wilmington, Delaware.

Committees: Same as in Case #4.

Claim: Contract signed June 7, 1926, by A. J. DeFiore for 40 pictures, 28 played, 3 cancelled, 9 pictures unplayed. Date of last picture played was March 30, 1928. Playing arrangement "To be dated when available." Dates supplied by exhibitor and refused to pick up shows on the dates booked:

April 20.	When Danger Calls	$10.00
May 11.	Dangerous Dude	10.00
June 1.	Tentacles of North	12.50
June 15.	Moran of Mounted	10.00
June 22.	Catch Catch Can	10.00
		$52.50

Decision: That the exhibitor pay to the Exchange within seven days from date $52.50, and that he complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were marked withdrawn:

De Luxe Ex. vs. F. Hollister, Opera House, Girardville, Pa.

De Luxe Ex. vs. Legion Theatre, White Haven, Pa.
De Luxe vs. Hippodrome, Pottstown, Pa.
De Luxe vs. Lyric Theatre, Boyertown, Pa.
Pathe Ex. vs. Palace Theatre, Sheppton, Pa.
Warner Bros. vs. Strand, Lancaster, Pa.
[fol. 2962] Warner Bros. vs. Elmer Theatre, Phila.
F. B. O. vs. Seville Theatre, Bryn Mawr, Pa.
Masterpiece Ex. vs. Columbia Theatre, Phila.
Masterpiece Ex. vs. York Theatre, Phila.
Pathe Ex. vs. John McTague, McTague's Theatre, Coaldale, Pa.

The following cases were postponed to July 13th, 1928:

F. B. O. vs. F. Hollister, Opera House, Girardville, Pa.
F. B. O. vs. I. Zatkin, Standard Theatre, Camden, N. J.
United Artists vs. Palace Theatre, Berlin, N. J.

Respectfully submitted.
Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 2963] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, July 13, 1928, at 11:00 A. M., Daylight Saving time, 1337 Vine Street, Philadelphia.

Mr. Lewen Pizor acted as Chairman.

Case #1, Universal Ex. vs. Capitol Theatre, Shamokin, Pa.

Committees: Exchanges, Zagrons, McFadden, Blofson; Exhibitors, Power, Perlin, Goldman.

Claim: Contract dated 10 20 27. No playing arrangement. Contract was signed by Arcadia Amusement Co., Ray G. Leitzel, for seven pictures, six of which played, leaving one unplayed. The date of the last picture played was April 5, 1928. Numerous dates were requested, and dates were set in on February 2, 1928, for The Wrong Mr. Wright April 12, 1928, rental value $50.00, parcel post 79c, C. O. D. 25c, return postage on refusal 65c, making a total of $51.69.

The exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $51.69 covering the refused picture

The Wrong Mr. Wright, plus parcel post and C. O. D. charges, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Universal Ex. vs. F. Hollister, O. H., Girardville, Pa.

Committees: Same as in Case #1.

Claim is for $24.08 covering Three Collegians.

The exhibitor was not present, but a letter was read, which he sent, in which he set forth that one of the Collegians was paid for, the amount of same having been attached to a feature which was sent him by the Exchange.

The Exchange claims they did not receive payment for any of the Collegians in question, but would look up their records.

Decision: That the exhibitor pays to the Exchange within seven days from date $24.08 covering the Three Collegians, and in the event that the picture alleged to have been paid by the exhibitor has actually been paid, that he will receive credit for the same by the Exchange, and upon failure of the exhibitor to comply with the decision of the Board, [fol. 2964] then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such Distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, United Artists vs. Palace Theatre, Berlin, N. J.

Committees: See below.

Claim: At the request of the exchange, this case was postponed until July 27, over the objection of the exhibitor. The committee that considered the question of the postponement was as follows: Exchanges, Wittman, McFadden, Blofson; Exhibitors, Axler, Perlin, Power.

Case #4, F. B. O. vs. Rialto Theatre, Williamsport, Pa.

Mr. Wittman now Chairman.

Committees: Exchanges, Zagrons, Blofson, Von Tilzer; Exhibitors, Goldman, Power, Perlin.

Claim: Contract dated March 21, 1928, signed by William B. Wilson for one picture, which was not played. Exhibitor had set the date in for his use on May 3-4-5, and then refused to lift the picture.

Decision: That the exhibitor pay to the Exchange within seven days from date $150.00, representing the rental value of the picture in question, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such Distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, F. B. O. vs. F. Hollister, O. H. Girardville, Pa.

Committees: Same as in Case #4.

Claim: Two contracts, one for features dated August 24, 1926, and one for comedies dated 10/25/27, signed by Frank Hollister, for 28 features and 26 played leaving two pic-
[fol. 2965] tures unplayed. Date of last picture played May 17, 1928. Contract provided as follows: "This contract to be completed at the end of May 1927."

Exhibitor was not present.

It appeared that availability notice had been sent to the exhibitor prior to May 1927 that subsequent to May 1927 the exhibitor played quite a few features. The two pictures in question Magic Garden $25.00 was booked by the exhibitor for May 25, 1928, and the comedy Beauty Parlor $5.00 for May 12, 1928.

Decision: That the exhibitor pay to the Exchange within seven days from date $30.00 covering Magic Garden and Beauty Parlor, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such Distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150, under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, Fox Exchange vs. Logan Theatre, Loganton, Pa.

Committees: Exchanges, McFadden, Blofson, Von Tilzer; Exhibitors, Goldman, Power, Perlin.

Claim: Contract dated 11/4/26, signed by G. C. Schaeffer for 42 pictures and 52 comedies. Played 10 features and 51 comedies. Pictures unplayed 32 features and 1 comedy. Date of last picture played July 2, 1928. Subsequent to the signing of the contract, the exhibitor only opened his theatre one night a week and it was agreeable to the Exchange to play one picture every three weeks. The two pictures which the exhibitor did not lift were Fig Leaves June 2, 1927, $10.79 and Babes in Jungle $4.54. It appears that the theatre has now been closed for the Summer and is supposed to re-open in September.

Decision: That the exhibitor pay the Exchange within seven days from date $15.33 covering Fig Leaves and Babes in Jungle, which he did not lift, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor member of the Philadelphia Film Board of Trade, with whom the exhibi-

tor has any contracts, may at the option of each one of such Distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing [fol. 2966] contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade, and exhibitor is to complete the balance of his contract by playing a feature and a comedy each week upon the reopening of his theatre in September. The theatre to be reopened by September 15, 1928.

Case #7, Fox Ex. vs. Theatre Service Co., former owners of the Benn Theatre, Chester, Pa., Operated by Haggerty & Abrams

Committees: Same as in Case #6.

Claim: It appeared that the case was for $25.00 covering five issues of the News between May 22nd, and June 8th, inclusive, and the picture Love Hungry June 7th, which were played and not paid for by the exhibitor, amounting in all to $25.00.

Decision: That the exhibitor pay to the Exchange within seven days from date $25.00 covering five issues of the News and the picture Love Hungry, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such Distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #8, Tiffany-Stahl vs. I. Zatkin, Standard, Camden, N. J.

Committees: Same as in Case #7.

Claim: Contract was dated August 22, 1928, signed by I. Zatkin for Passion to be played by the exhibitor June 8, 1928, rental value $15.00. Exhibitor failed to lift the show. Exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $15.00 covering the cost of picture Passion, which he failed to lift, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor, member of the Philadelphia Film Board of Trade, with whim exhibitor has any contracts, may at the option of each one of such Distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 2967] The following cases were marked settled or withdrawn:

R. Schwartz, Ideal and Strand Theatres, Philadelphia, vs. Warner Bros.

Tiffany-Stahl vs. J. Higgins, Majestic Theatre, Shamokin, Majestic Theatre, Gettysburg, and Majestic Theatre, Tamaqua.

Jumbo Theatre vs. Tiffany-Stahl Exchange.

Montgomery Theatre, Phila. vs. Fox Exchange.

F. B. O. vs. Regent Theatre, Littlestown, Pa.

United Artists vs. Star, Hummelstown, Pa.

DeLuxe Exchange vs. Lindley Theatre, Philadelphia.

F. B. O. vs. Palace Theatre, Atlantic City, N. J.

Columbia Exchange vs. Germantown Theatre, Philadelphia.

De Luxe Exchange vs. New Princess Theatre, Phila.

F. B. O. vs. Standard Theatre, Camden, N. J.

The following cases were postponed to July 27, 1928:

De Luxe Exchange vs. Clementon Theatre, Clementon, N. J. (Handle & Rovner.)

De Luxe Exchange vs. Westmont Theatre, Westmont, N. J.

United Artists vs. Palace Theatre, Berlin, N. J.

Respectfully submitted.
Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA/ASH.

[fol. 2968] Minutes of the meeting of the Joint Board of Arbitration, held on Friday, August 10th, 1928, at 11:00 A. M. Daylight Saving Time, 1337 Vine Street, Philadelphia

Mr. J. Von Tilzer acted as chairman.

Case #1 Columbia Pictures Corp. vs. H. Hagerty, Pres. Laurel Springs Improvement Co., Laurel Theatre, Laurel Springs, N. J.

Committees: Exchanges, Messrs. Goodman, Blofson, & McFadden; Exhibitors, Messrs. Weiss, Pizor, & Power.

Claim: This claim was based on contracts dated Dec. 12, 1927, and Jan. 4, 1928. First Contract was signed H. W. Hagerty, as president; second contract signed by Mr. Hagerty as an individual. Two contracts covered 56 pictures. Twenty-two played. Remaining unplayed, 14 features and 20 screen snaphots. Date of last picture played June 9, 1928. Theatre closed on or about July 1st. No provisions were made for the unplayed portion of the contracts.

Exhibitor was present, and admitted the closing of the theatre. Amount of claim, $295. representing fourteen features, and $50.00 representing twenty screen *s*hap shots, representing a total of $345.00.

Decision: That the exhibitor pay, within seven days, to the distributor, the sum of $345.00, representing the rental value of the unplayed portion of the contracts in question.

Case #2, F. B. O. Pictures Corp. vs. H. M. Meeker, Hamilton Theatre, Allentown, Pa.

Mr. L. Pizor acted as chairman.

Committees: Exchanges, Messrs. Landow, Goodman & Blofson; Exhibitors, Messrs Perlin, Perelman, and Power.

Claim: This claim was based on a contract dated Oct. 14, 1926, signed by H. M. Meeker, for 54 features, 48 comedies. Thirty-eight pictures played. Sixteen pictures unplayed.

Date of last picture played June 22, 1928. Contract specifically provided as follows: "Ahead of the Ridge Theatre, the exhibitor agrees to play three or more pictures per month, starting the first week in February 1927. The contract must be completed within 16 months of starting date, including the short subjects." Claim was brought by the exchange in an amount of $55.00, representing the following pictures which had been shipped by the exchange on the dates indicated. 7/7/28 "Border Whirlwind", $10.00; 7/14/29 "Is That Nice", $10.00; 7/21/28 "Sonora Kid", $12.50; 7/28/28 "Naughty Nanette", $12.50 8/4/28 "Cactus Trails", $10.00.

Defense: That the contract ended 16 months after February 1927, which would have made the termination date of the contract end on June, 1928. The exhibitor had played all pictures on which he has received an availability notice, which pictures were deliverable to him prior to the end of June 1928. That the pictures in question, and the balance of the pictures on the contract were deliverable only subse-
[fol. 2969] quent to the end of June 1928, which pictures he was not obligated to play under the terms of the contract.

The answer of the exchange to this proposition was that the first picture on the contract having played April 23rd, the contract therefore had 16 months to run from April 23rd, which would bring the terminating date of the contract to October 1928. The exhibitor showed that his failure to start to play in February 1927 was due to the fact that the exchange had no pictures available for his use, because of prior runs during the month of February 1927, and that it was no act on his part that delayed the playing of any picture, but aside from this, the contract was very specific in its starting date.

Decision: The Board, upon conclusion of all the evidence, was unable to arrive at a conclusion, and it was determined to call in a seventh arbitrator, the Secretary being instructed to communicate with a Mr. L. Stauffer Oliver, a member of the Philadelphia Bar.

Case #3, DeLuxe Film Co., Inc., vs. Samuel Hyman, Dazzleland Theatre, Philadelphia

Exhibitor not present.
Committees: Same as in Case #2.

Claim: This claim was based on a contract dated Sept. 16, 1927, signed by Samuel Hyman, for 22 pictures. Three played. Date of last picture played August 1, 1928. Playing arrangement—when available. Dates requested numerous times, and on June 25, 1928, the exchange set in the following dates: July 16th "Stranded", $10.00; July 25th "Cheer Leader", $12.50; August 3rd "Bare Knees", $12.50. Exhibitor failed to flft pictures on the dates set.

Decişion: That the exhibitor pay to the distributor within seven days from the date hereof, the sum of $35.00, covering the rental value of "Stranded", "Cheer Leader", and "Bare Knees", which were booked to the exhibitor in accordance with the terms of the contract dated September 16, 1927, and acceptance thereof refused. Also that the exhibitor go through with the balance of the contract, in accordance with the terms of said contract. Upon the failure of the exhibitor to fully comply with this award within seven days from the date hereof, the sum of $150.00 is hereby fixed as the maximum amount which each distributor, a member of the Film Board of Trade of Philadelphia, having contracts with the exhibitor, may demand pursuant to the provision of the arbitration clause contained therein, as security for the performance by the exhibitor of each such contract.

Case #4, DeLuxe Film Co., Inc., vs. Wm. Blumenberg, Stroud Theatre, Stroudsburg, Pa.

Same Committees as in Case #3.

Exhibitor not present.

[fol. 2970] Claim: This claim was based on a contract dated Sept. 30, 1927, covering 11 pictures. Three played. Eight unplayed. Date of last picture July 11, 1928. The exhibitor booked "Girl From Rio" for April 16, 17, 18, 1928, at a rental value of $50.00, and neglected to pick it up. Parcel post in addition, $1.39. Claim was also for $24.15, balance due on "Cheer Leader", played by the exhibitor on July 11th. Total amount of claim $75.54.

Decision: That the exhibitor pay to the distributor within seven days from the date hereof, the sum of $75.54, covering the rental of the picture "Girl From Rio", plus $1.39 parcel post charges, and a balance of $24.15, due on "Cheer Leader", which was played by the exhibitor on July 11,

1928, in accordance with the terms of the contract dated Sept. 30, 1927. Upon the failure of the exhibitor to fully comply with this award within seven days from the date hereof, the sum of $250.00 is hereby fixed as the maximum amount which each distributor, a member of the Film Board of Trade of Philadelphia, having contracts with the exhibitor, may demand pursuant to the provision of the arbitration clause contained therein, as security for the performance by the exhibitor of each such contract.

Case #5, United Artists Corporation vs. Samuel Stiefel, Palace Theatre, Berlin, N. J.

Mr. E. J. Goldman acted as chairman.

Committees: Exchanges, Messrs. Landow, McFadden, & J. Levy; Exhibitors, Messrs. Power, Perelman, & Meeker.

Claim: The claim of the exchange was for $85.00, representing the rental value of "The Circus", which the exhibitor failed to lift under date of May 21st and 22nd, 1928, which was set by the exchange under date of May 11, 1928. The exhibitor was represented in this instance by Lewen Pizor.

Defense: That the exchange had breached its contract in so far as the practice between the exhibitor and the exchange had been for the theatre to play ahead of the Clementon. The exchange sold this picture to the Clementon Theatre, Clementon, N. J., which theatre played ahead of the Palace Theatre. In answer to this, the exchange raised the question that as the contract had been passed on by a previous Board on April 27, 1928, in a case wherein the exhibitor had brought a claim for damages against the exchange, growing out of the same alleged breach of the same contract, and which Board had declared the contract to be valid.

Decision: The Board was unable to arrive at a decision, and the matter referred to a seventh arbitrator, the Secretary being instructed to communicate with a Mr. L. Stauffer Oliver, a member of the Philadelphia Bar.

The following cases were withdrawn:

Tiffany Stahl Productions vs. Broadway Theatre, Wilmington, Del.

[fol. 2971] United Artists Corp. vs. Pearl Theatre, Phila.

United Artists Corp. vs. Nujoy Theatre, Port Norris, N. J.

United Artists Corp. vs. Opera House, Girardville, Pa.

United Artists Corp. vs. Moorlyn Theatre, Ocean City, N. J.

Columbia Pictures Corp. vs. Germantown Theatre, Phila.

Columbia Pictures Corp. vs. Lehigh Theatre, Phila. (2 cases).

Columbia Pictures Corp. vs. W. Allegheny Theatre, Phila. (2 cases).

Columbia Pictures Corp. vs. Standard Theatre, Camden, N. J.

Columbia Pictures Corp. vs. Parkside Theatre, Camden, N. J.

DeLuxe Film Co., Inc., vs. Grand Opera House, E. Stroudsburg, Pa.

DeLuxe Film Co., Inc. vs McTague Theatre, Coaldale, Pa.

DeLuxe Film Co., Inc. vs. Rivoli Theatre, Phila.

DeLuxe Film Co., Inc. vs. Flood's Theatre, New Phila., Pa.

DeLuxe Film Co., Inc. vs. Westmont Theatre, Westmont, N. J.

DeLuxe Film Co., Inc. vs. Clementon Theatre, Clementon, N. J.

DeLuxe Film Co., Inc. vs. Keystone Theatre, Phila.

DeLuxe Film Co., Inc. vs. Stratford Theatre, Phila.

Masterpiece Film Attractions vs. Seville Theatre, Bryn Mawr, Pa.

Universal Film Exchange vs. Opera House, Barnegat, N. J.

The following cases were postponed until August 24th:

DeLuxe Film Co., Inc., vs. Universal Theatre, Benton, Pa.

Masterpiece Film Attractions vs. Opera House, Girardville, Pa.

Warner Bros. Pictures vs. Alma Theatre, Phila.

Universal Film Exchange vs. Globe-Spielmont Theatres, Marcus Hook, Pa.

Universal Film Exchange vs. Rose Theatre, Phila.

United Artists Corp. vs. Summit Theatre, Harrisburg, Pa.

Regent Theatre, Philadelphia vs. Columbia Pictures Corp.

[fol. 2972] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, August 24th, 1928, at 11:00 A. M. Daylight Saving Time, 1337 Vine Street, Philadelphia, Pa.

Case #1, Pathe Exchange vs. M. Berman, Ritz Theatre, Phila, Pa.

The committee consisted of the following representing the Exchangemen, Messrs. Goodman, Bodkin, and Harris, and representing the exhibitors were Messrs. Perlin, Pizor, Power, and the Committee was presided over by Mr. Wittman, as Chairman.

The exhibitor was represented by George P. Aarons, Secretary of the Motion Picture Theatre Owners of Eastern Pennsylvania, of which organization the exhibitor is a member.

Mr. Aarons made an application for the immediate hearing of this case. This was objected to by Mr. Greenberg on behalf of the Pathe Exchange, who insisted that the case be postponed until Friday September 7th, 1928, the reasons advanced for the motion was based on the following:

1. Rules of Arbitration as adopted in May, 1928, provide under Section 6 of Rule 3: "Each of the parties to a controversy submitted for arbitration, shall have the right to one adjournment of the hearing thereof until the date of the next succeeding regular meeting of the Board of Arbitration, by sending a written demand thereof at least three days prior to the date fixed for the hearing of such controversy, addressed to the Secretary for the Board of Arbitration." That no notice of such request for postponement had been sent to the Secretary of the Board of Arbitration in compliance with these Rules.

2. That a letter as follows, was sent to the exhibitor under date of August 20th, 1928, on the stationery of the Film Board of Trade, signed by the Film Board of Trade, per J. H. Greenberg, Secretary, "Dear Mr. Berman: In

view of the fact that the attorney representing the Copyright Protection Bureau will be unable to be at the hearing of the Board of Arbitration, on Friday, August 24th, the case of the Pathe Exchange, Inc. vs. yourself, has been continued until Friday, September 7th, at 11 A. M., Daylight Saving Time. You will please consider this your notice to appear before said Board at the time and date specified."

3. That the Copyright Protection Bureau is not a party to the contract existing between the exchangemen and the exhibitor, and that any request for postponement must come from either one of the parties to the controversy, and not a third or outside source.

The committee went into consideration of the motion of the exhibitor to have the case heard, and upon a vote, it resulted in a tie-vote, and the Secretary was then instructed to submit the matter to a seventh arbitrator for determination of whether or not the hearing should have been heard by the then present Board of Arbitration on motion of the exhibitor.

[fol. 2973] Case #2, 20th Century Film Ex. vs. C. M. Dubrawski, Palace, Sheppton, Pa.

Mr. Wittman acting as Chairman of the Board.

Committee: Exchanges, Goodman, Bodkin, Harris; Exhibitors Perlin, Pizor, Power.

Exhibitor not present.

Claim for $40.65 covering five shows refused by the exhibitor, and also for the completion of the balance of the contract. Date of the contracts December 8, 1926, covering 17 pictures, and October 13, 1927, covering 20 pictures, signed by Mr. Dubrawski. Total number of pictures 37, 12 played on the contract of Dec. 8th, 1926, leaving 5 unplayed on this contract, and 20 on the contract of October 13, 1927. Last picture played on contract of December 8, 1926, was July 14, 1928. Numerous dates have been requested and on June 19, 1928, the exchange set in dates for the following shows:

July 28. Fall of Alamo	$7.50
July 2nd. Buried Gold	8.15

Aug. 4th Flying Fool	$7.50
Aug. 11th. Sadie Jumper	7.05
Aug. 18th. Cross Breed	10.00

None of these shows were accepted by the exhibitor; total rental value being $40.65, and a number of shows set in under the said date, beginning September 1st, to November 17th, inclusive.

Decision: That the exhibitor pay to the Exchange within seven days from date $40.65 covering the above pictures refused by the exhibitor, and that he complete the balance of all the contracts in accordance with the dates set in by the exchange, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributing member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Warner Bros. vs. Fred Bickhardt, Alma Theatre, Phila., Pa.

Committees: Same as in Case #2.

Exhibitor not present.

Claim for $32.00, representing the replacement cost of 800 feet of picture What Happened to Father, which the exhibitor played on February 24, 1928. It further appeared that this exhibitor had his machines equipped with the Sentry Safety device, and has since the damage to the film, re- [fol. 2974] ceived $32.00 from this company in payment of the picture.

Decision: That the exhibitor pay to the Exchange within seven days from date $32.00 covering the cost of the replacement of the 800′ of film, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any con-

tracts may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, De Luxe Ex. vs. Mr. Chapin, Universal Theatre, Benton, Pa.

Committees: Same as in Case #3.

Claim is for $8.22. Date of contract August 26, 1927. The picture in question King of Pack was played by the exhibitor on April 17, 1928, and not paid for. 72¢ parcel post charges is included in the amount of $8.22.

Decision: That the exhibitor pay to the exchange within seven days from date $8.22 covering the picture King of Pack which he played and did not pay for, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Pathe Ex. vs. F. Wolf, Nixon Theatre, Wildwood, N. J.

Committee: Same as in Case #4.

Claim was for $93.60, representing short subjects played by the exhibitor and not paid for, and refused by the exhibitor. Contract dated May 14, 1928, signed by M. Stanford for Frank Wolf, covering 40 issues of short subjects,

and exhibitor played only 26 issues. 14 remain unplayed. Date of last picture played August 20-22, 1928. Playing arrangement "One issue of Fables a week and One issue of topics a week. Two issues of Pathe News a week." It appeared that the exhibitor had played within June 28, 1928, and July 23, 1928, 10 short subjects, amounting to $218.60, upon which he had paid $100.00, and received a credit of $35.40, making a total credit of $135.40, leaving a balance due of $83.20, and that included in this charge were four short subjects which the exhibitor had failed to lift, thus a balance of $93.60 is due the exchange.

The exhibitor was not present.

[fol. 2975] Decision: That the exhibitor pay to the exchange within seven days from date $93.60, the amount of the claim, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the Philadelphia Film Board of Trade.

Case #6, United Artists vs. Mrs. J. M. Thomas, Summit Theatre, Harrisburg, Penna.

Committees: Exchanges, Goodman, Quinleven, Harris; Exhibitors, Perlin, Pizor, Power.

Claim: For $43.87 representing pictures which the exhibitor failed to lift. Contract was dated January 31, 1928, signed by Mrs. J. M. Thomas, covering four pictures, none of which had been played. Playing arrangement—"To be played before June 15, 1928." Numerous dates were requested and on June 5th, 1928 exchange set in dates on the following pictures:

Tumbleweeds, 6/25	$10.00
The Bat, 6/26	10.00

Wild Justice, 6/27	$10.00
Marak of Zorro, 6 28	10.00
Parcel post	3.87

Decision: That the exhibitor pay to the Exchange within seven days from date $43.87 representing the cost of the pictures, plus parcel post, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case # 7, Masterpiece Ex. vs. F. Hollister, Opera House, Girardville, Pa.

Committees: Exchanges, Goodman, Quinleven, Bodkin; Exhibitors, Perlin, Pizor, Power.

Claim for $70.65, including parcel post, for pictures shipped to the exhibitor and refused by the exhibitor. Also a claim for the faithful performance of the balance of the contracts and to perform the contracts in accordance with the terms thereof. Number of contracts dated 1/12/27, 10/26/27, and 12/20/27, signed by F. Hollister, covering 30 features, 52-2 reel comedies, of which 13 features and 29 [fol. 2976] comedies had been played, leaving unplayed 17 features and 23 comedies. Date of last pictures played was a feature July 14th, and a comedy August 13th. Playing arrangement "One feature and one comedy per week." Dates were furnished by the exhibitor. Exhibitor failed to lift the following shows:

Hearts and Hurdles, 6/30	$5.00
P. P.	1.50
Way of All Fish, 7/7	5.00
P. P.	1.50
Silent Sentinel, 7/23	12.00

P. P.	$0.65
Comrades, S 13	15.00
P. P.	1.50
College Cukoo, S 11	5.00
P. P.	1.50
Wild Geese, S 20	20.00
P. P.	1.50
Total	$70.65

Decision: That the exhibitor pay to the Exchange within seven days from date $70.65 covering the above pictures, and that he complete the balance of the contracts with the exchange, in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case # 8, Universal Ex. vs. Jos. Rose, Rose Theatre, Phila., Pa.

Mr. Pizor acted as Chairman in this case.

Committees: Exchanges, Goodman, Quinleven, Bodkin; Exhibitors, Perlin, Perelman, Power.

Claim for $25.00 for failure to lift pictures. Contracts dated for two reel Westerns January 11, 1926, and features November 22, 1926, contracts signed by Jos. Wolf and assumed by Jos. Rose 12.28 27 covering 52 Westerns and 16 features, on which had been played 51 Westerns and 16 features.

Playing arrangement "To be played weekly." Dates were finally set in by the Exchange under date of June 18, 1928 on the following:

Plumed Rider played by the exhibitor August 10th, $5.00.

Pawns and Queens played by the exhibitor August 17th, $5.00.

These pictures were paid for by the exhibitor by check in amount of $10.00, which check was returned marked N. S. F., and the picture Her Big Night booked for August [fol. 2977] 17th was refused by the exhibitor to the value of $15.00, making a total claim of $25.00.

Decision: That the exhibitor pay to the exchange within seven days from date $25.00 covering the cost of picture Her Big Night $15.00 and $10.00 covering N. S. F. check issued by the exhibitor, and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were marked withdrawn or settled:

Vitagraph vs. Jos. Forte.

Masterpiece vs. I. Zatkin, Parkside, Camden, N. J.

Masterpiece vs. Morris Freed, Narberth, Pa.

Paul O. Klinger, McVey Theatre, McVeytown, Pa., vs. Paramount.

Fox vs. C. Stamper, Frankford Theatre, Frankford, Phila.

Pathe vs. W. H. Lee, Wyalucing Theatre, Wyalucing, Pa.

Universal vs. Globe and Spielmont, Marcus Hook, Pa.

United Artists vs. Wm. Hissner, Academy of Music, Lebanon, Pa.

Masterpiece vs. Sacred Heart Church, Silver Creek, Pa.

Pathe vs. McTague Theatre, Coaldale, Pa.

Universal vs. Globe and Spielmont, Marcus Hook, Pa.

The following cases were postponed to Friday, Sept. 7th, 1928:

F. B. O. vs. H. Axler, Bellevue Theatre, Phila.

Warner Bros. vs. Equity Theatres, Inc., Criterion, Bridgeton, N. J.

Vitagraph vs. Capitol, Shamokin, Pa.

Fox vs. East Coast Theatres, Inc., Palace Theatre, Berlin, N. J.

Pathe, Educational, F. B. O. and Fox vs. Strand, Lancaster, Pa.

Educational and United Artists vs. Capitol Theatre, Woodbine, N. J.

Pathe Tiffany, Educational and Paramount vs. Ferrara Theatre, Landisville, New Jersey.

Columbia Pictures vs. Globe Theatre, Bethlehem, Pa.

F. B. O. vs. Moose Theatre, Tremont, Pa.

Columbia Pictures vs. Opera House, Columbia, Pa.

Columbia Pictures vs. Seville Theatre, Bryn Mawr, Pa.

F. B. O. vs. Moon Theatre, Tremont, Pa.

20th Century vs. West Allegheny and Lehigh Theatres, Phila.

Regent Theatre, Phila. vs. Columbia Pictures.

Respectfully submitted.

Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 2978] Minutes of the meeting of the Joint Board of Arbitration Held Friday, September 7th, 1928, at 11:00 A. M., 1337 Vine Street, Philadelphia, Pa.

Mr. S. Wittman, Chairman.

Case #1, 20th Century Ex. vs. H. Perelman, W. Allegheny Theatre, Philadelphia, Pa.

Committee: Exchanges, Humphreys, Goodman, Zagrons; Exhibitors, Goldman, Power, Pizor.

Claim: Contract dated July 26, 1927, signed by H. Perelman, covering 10- 2 reel subjects, 9 pictures were played and one picture remains unplayed. Picture was booked by the exhibitor for July 6th and 7th, 1928, and played, but

did not pay for same. Rental value was $10.00. The picture in question Three Faces West.

Decision: That the exhibitor pay to the Exchange within seven days from date $10.00 covering the above picture, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, demand at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case =2. 20th Century Ex. vs. H. Perelman, Lehigh Theatre, Phila.

Committee: Same as in Case =1.

Claim for $60.00 in failing to play and pay for pictures under contract. Two contracts, one dated January 10, 1927, for 6 pictures, on which 2 were played, and 4 remain unplayed. One dated November 10, 1926, for 6 pictures, 5 were played and one remains unplayed. Date of last picture played on the first contract May 24, 1928, and on the second contract December 24, 1927.

The exhibitor had furnished the dates and he failed to play the following pictures:

His Rise to Fame, June 30	$25.00
Broadway Madness, July 27	17.50
Out of the Past, Aug. 19	15.00

balance of $2.50 due on Your Wife and Mine, played June 15th, making a total of $60.00.

Decision: That the exhibitor pay to the Exchange within seven days from date $60.00 covering the above pictures, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option

of each one of such distributors, demand for its protection [Vol. 2979] and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Liberty Film Ex. vs. L. Schleifer, Crescent Theatre, Phila.

Committee: Same as in Case #2.

Claim for $26.00. Contract dated September 26, 1927 and January 20, 1928, signed by Louis Schleifer and H. M. Schleifer, for 26 single reel comedies and 78- 2 reel comedies. Exhibitor played 19- 2 reel and 3 single reel comedies, leaving unplayed 23 single and 59- 2 reels. Date of last picture played was July 17, 1928. Playing arrangement "A single and a two reel comedy every Tuesday. The exhibitor failed to play the comedies in accordance with the terms of the contract. All dates were submitted by the exhibitor.

Claim is made up as follows:

7	3. Goofy Gas	$2.00
	Excess Relatives	5.00
7	10. Foiled	5.00
	His Lucky Day	2.00
7	24. Winnie's Birthday	5.00
	Lyin Hunter	2.00
7	31. Winnies Behave	5.00
		$26.00

Decision: That the exhibitor pay to the Exchange within seven days from date $26.00, and complete the balance of the contract in accordance with the terms thereof.

Case #4, Universal Exchange vs. Standard Theatre, Camden, N. J.

Mr. L. Pizor now acted as Chairman.

Committee: Exchanges, Humphreys, Goodman, Zagrans; Exhibitors, Goldman, Power, Perlin.

Claim for $30.00 on contracts dated June 28, 1926 for 29 pictures, 28 of which were played, one picture remaining unplayed, and contract dated June 2, 1926, for 52 pictures, 46 played and 6 remain unplayed, signed by I. Zatkin. Date of last picture played on first contract March 31, 1928, on second contract August 27, 1928. The first contract covered features, second contract covered comedies. Playing arrangement: "Comedies one a week; features as available." Dates set in by the exhibitor for July 13th.

That's No Excuse	$5.00	
George's Many Loves	5.00	7 20
Her Big Night	20.00	7 20
	$30.00	

Decision: That the exhibitor pay to the Exchange within seven days from date $30.00 covering the above pictures, [fol. 2980] and that he complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphi Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case =5, Universal Exchange vs. McTague's Theatre, Coaldale, Pa.

Committee: Same as in Case =4.

Claim for $15.44. Date of contracts 9 16 26 and 4 3 28 for 30 weeks' of complete service. 29 pictures were played and one remains unplayed. Exhibitor failed to lift and pay for the show Poker Faces on July 17 $13.77, P. P. $1.55, making a total of $15.44.

Decision: That the exhibitor pay to the exchange $15.44 for Poker Faces, plus parcel post charges, and that he complete the contracts in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case =6, F. B. O. vs. Elm Theatre, Philadelphia, Pa.

Mr. S. Wittman now acting as Chairman.

Committee: Exchanges, Humphreys, Goodman, Zagrons; Exhibitors, Goldman, Power, Pizor.

Claim for $45.00. Contract dated Sept. 19, 1927 for 44 pictures, played 20 pictures and 24 remain unplayed. Last picture played August 23, 1928. Dates were set in by the exhibitor, who failed to lift the shows:

7 23. A Flame in the Sky	$15.00
7 27. Not For Publication	15.00
7 28. Hook and Ladder =9	15.00

It appeared the theatre in question was closed, but the above dates were set in while the theatre was open.

[fol. 2981] Decision: That the exhibitor pay to the exchange within seven days from date $45.00 covering the above pictures, and that he complete the balance of the contract in accordance with the terms thereof.

Case =7, Fox Ex. vs. S. Stiefel, Palace Theatre, Berlin, N. J.

Committees: Exchanges, Humphreys, Goodman, Applegate; Exhibitors, Goldman, Power, Pizor.

Claim for $36.00. Contracts were dated 1 28 27 and Sept. 6, 1927 for 6 pictures. Date of last picture played

May 19, 1928, being News =64. Amount of claim $36.00 for nonpayment of the following shows which were played:

5/4.	Gateway of the Moon	$12.50
5/5.	News =60	2.00
6/8.	Sharp Shooters	12.50
5/12.	News =62	2.00
5/14.	Hot House Hazle	5.00
5/19.	News =64	2.00
		$36.00

These pictures were played while S. Stiefel was operating the theatre, since which time he has ceased to operate the theatre himself, and H. Hoffman is now operating it. The exhibitor was not present, but a letter to the exchange from the exhibitor was received that he was attempting to adjust a matter with Hoffman.

Decision: That the exhibitor pay to the exchange within seven days from date $36.00 covering the above pictures.

Case =8, First National vs. J. B. Fox, Stanley-Fox Corp., Burlington, N. J.

Committee: Exchanges, Humphreys, Goodman, Zagrons; Exhibitors, Goldman, Perlin, Pizor.

Claim for $54.00 to cover replacements necessary for 2758 feet ruined by the exhibitor of the show Sailors' Wives played at exhibitor's theatre April 28, 1928.

Defense was that the film was not damaged in his theatre. His operator testified that the film was not damaged. The exchange produced their booking sheet to show, and the inspection cards, to show that the film was received by the exchange in a damaged condition, and on May 3rd, the film was shipped to the Strand Theatre, Doylestown, Pa., which theatre, immediately upon receipt of the film, reported to the Exchange the damaged condition of the film before he played the film.

Decision: That the exhibitor pay to the exchange within seven days from date $54.00, representing the replacement of 2758 feet of film, which the Board finds to have been damaged while the film was in possession of the exhibitor, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other dis-

[fol. 2982] tributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #9, Pathe Exchange vs. Strand Theatre, Lancaster, Pa.

Chairman: Mr. Applegate.

Committees: Exchanges, Neufeld, Heenon; Exhibitors, Pizor, Power.

Claim for damages for breach of contract by the exhibitor in playing Chicken Feed, a comedy for two days, when the comedy had been contracted for by the exhibitor for but one day.

Exhibitor was present, and in the defense he showed that he had two contracts, an old contract with the exchange for Gang Comedies for $10.00 for 2 days, and the new contract for Gang Comedies for $7.50 for one day. In the defense, the exhibitor showed that he had entered into an oral arrangement with the booker, that he would be permitted to play Chicken Feed Comedy on the new contract for two days, and that he would play the comedy on the old contract one day and pay the two day price for this comedy of $10.00, which made $17.50 for the three days he used the two comedies in question.

Upon the introduction of this defense, and the statement of the booker for the exchange that he would not dispute this arrangement, the plaintiff then requested a withdrawal of the case.

The following cases were settled or withdrawn:

Tiffany-Stahl vs. Standard Theatre, Camden, N. J.
Columbia vs. Mr. Weiss, Bridesburg Theatre, Phila.
F. B. O. vs. New Princess, Phila.
" " Tioga Theatre, "
" " Viola " "

20th Century vs. Temple, Ashland, Pa.
F. B. O. vs. Stanley-Stiefel Corp. Poplar Theatre, Phila.
" " Stroud Theatre, Stroudsburg, Pa.
" " Rivoli Theatre, Phila.
" " Wayne Theatre, Wayne, Pa.
" " Pastime Theatre, Phila.
" " Bellevue " "
Warner Bros. vs. Equity Corp. Criterion, Bridgeton, N. J.
Vitagraph vs. Capitol, Shamokin, Pa.
Columbia vs. Globe, Bethlehem, Pa.
Columbia vs. O. H., Columbia, Pa.
" " Seville, Bryn Mawr, Pa.
F. B. O. vs. Moose, Tremont, Pa.
Regent Theatre, Phila. vs. Columbia Pictures.

[fol. 2983] The following cases were postponed to Friday, September 14, 1928:

Pathe Exchange vs. Ritz Theatre, Phila.
Interstate vs. Grand Theatre, Ephrata, Pa.
Pathe vs. Ferrara Theatre, Landisville, N. J.
Tiffany vs. Ferrara Theatre, Landisville, N. J.
Educational vs. Ferrara Theatre, Landisville, N. J.
Paramount vs. Ferrara Theatre, Landisville, N. J.

The following cases were postponed to Friday, Sept. 21, 1938:

Columbia Pictures vs. Berwyn Theatre, Berwyn, Pa.
Columbia Pictures vs. Bryn Mawr Theatre, Bryn Mawr, Pa.

Respectfully submitted.
Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

Copy

[fol. 2984] Fox Exchange, Educational Film Co. F. B. O. Harry Chertcoff, Strand Theatre, Lancaster, Pa. J. H. Greenberg.

September 10, 1928.

DEAR SIR: You will kindly note the following decision was rendered by the Board of Arbitration at its meeting held

on Friday, September 7th, 1928, in the case of yourself vs. the Strand Theatre, Lancaster, Pa.

Decision: It is hereby decided that Mr. Cherteoff of the Strand Theatre, Lancaster, be charged $250.00 for "Wisecrackers" used February 21st, and five times rental price on balance of 9 used on additional days and not contracted for, and $250.00 for Fox News used on March 6th, and five times rental price on balance of 16 Fox News used on additional day not contracted for, and $250.00 for Educational Comedy used on March 13th, and five times rental price on 3 additional Educational Comedites used on day not contracted for.

(Signed) Justin Herman, Acting Secretary.

Yours very truly, —— ——, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 2985] Minutes of the meeting of the Joint Board of Arbitration Held Friday, September 14th, 1928, at 1337 Vine Street, Philadelphia

Mr. Pizor acted as Chairman.

Case #1, New Theatre, Media, Pa., vs. Universal Exchange

Committees: Exchanges, Landau, Goodman, Blofson; Exhibitors, Power, Perlin, Goldman.

Claim: For cancellation of the contract and damages in the amount of $100.00, because of breach of contract in the exchange permitting Drexel Hill to play Finders Keepers ahead of the New Theatre.

Mr. Harry Dembow represented the theatre. Contract was dated Feb. 1, 1928, for 18 pictures. Contract provided as follows: "Ahead of Drexel Hill." Playing arrangement "As available." The complainant stated that he went into the Exchange after the contract was signed and on numerous occasions requested play dates and he was advised that the pictures were not available. He had played 12 pictures on the contract and there remained six pictures, including the one Finders Keepers, that because of the inability of the Exchange to give him play dates, he was compelled to go and buy pictures from other exchanges. It was neces-

sary for him to buy and play Hell Ship Bronson August 18th, 1928, and United States Smith August 25th, 1928, and that the picture Finders Keepers was played by Drexel Hill on August 27th, 1928. Complainant further stated that the Exchange had not advised him that Finders Keepers was available to him prior to August 27, 1928.

Defence: In defence, the Exchange admitted that the picture Finders Keepers played Drexel Hill in violation of the contract, but that this was due to an innocent mistake on the part of the booker, that the Exchange had contracts for the same pictures for first run in Philadelphia, and that other contracts provided that the same pictures be played at Chester, in addition to Philadelphia, ahead of the Media Theatre. That in the case of Finders Keepers the first run had paid for this picture but did not play it; that Chester had not played it. Further, that the contract also provided with the first run at Chester was to play ahead of Drexel Hill and that the giving of the picture to Drexel Hill was an innocent violation of the contract.

Decision: The decision of the Board, upon consideration of all the facts, decided that the claim of the New Theatre, Media, be allowed in respect to the six pictures unplayed on the contract, and that the same be cancelled due to the breach by the exchange, and that no monetary damages be allowed.

Case #2, Universal Exchange vs. F. Hollister, O. H., Girardville, Pa.

Committees: Same as in Case #1.

Exhibitor was not present.

[fol. 2986] Claim: Contract in question dated October 5, 1927, signed by F. Hollister for 57 weeks of complete service. The exhibitor under the contract had played 26 pictures, 31 remained unplayed.

Date of last picture played was Sept. 5, 1928. Playing arrangement "To play and pay weekly". The exhibitor refused to accept on August 15, 1928, Man's Past and Vanishing Rider #2, and that the rental value of the same was $17.50, parcel post 93c, return postage 70c, and by correspondence C. O. D. fee 15c, making a total of $19.28.

Decision: That the exhibitor pay $19.28 within seven days from date to the exchange, and that he complete the

balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Tiffany-Stahl vs. L. Berman, Savoy Theatre, Bethlehem, Pa.

Committees: Exchanges, Landau, Goodman, Wittman; Exhibitors, Power, Perlin, Goldman.

Claim: Contract in question dated July 9, 1927, signed by L. Berman, provided for 20 pictures; the exhibitor agreeing to play at least 15. The exhibitor played 6 pictures, leaving remaining unplayed 9 pictures. Last one played August 6-7-8, 1928. Playing arrangement "To start September 1927, if available, and to be completed by September 1928." The claim was for $200.00 representing—

Night Life, rental $100.00, refused August 23-24-25.
Their Hour, rental $100, refused August 13-14-15.

Decision: That the exhibitor pay to the exchange within seven days from date $200.00 covering the above two pictures, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 2987] Case #4. Tiffany-Stahl vs. Laurel Springs Improvement Co., Laurel Theatre, Laurel Springs, N. J.

Committees: Same as in Case #3.

Claim: Contracts dated December 10, 1927, covering 29 features and 30 single reels, 11 features were played and 13 single reels, leaving remaining unplayed 18 features and 17 single reels. Contract provided for one a month from December, 1927. The exhibitor transferred his theatre without making provisions for the unplayed balance of the contract. The balance of the unplayed pictures amount to $537.50, being 17 features at $25.00 or $435.00; one feature at $17.50 and 17 single reels at $5.00 or $85.00, making a total of $537.50.

Decision of the Board that the claim be allowed and the exhibitor pay to the Exchange within seven days the amount of $537.50.

Case #5, Pathe Ex. vs. H. Fried, Anthony Wayne Theatre, Wayne, Pa.

Mr. Wittman acted as Chairman.

Committee: Exchanges, Landau, Goodman, Blofson; Exhibitors, Power, Price, Pizor.

Claim: Contracts #178 dated May 18, 1926 and standing order covering Fables, odd and even News dated 9/20/26, signed by H. Fried. Number of pictures unplayed were 8 features and 136 Fables and News combined. Date of last picture played was a feature on April 13, 1927 at a theatre operated by the exhibitor at Wayne, Pa. It further appeared that this theatre was closed about August 1, 1927; that the new theatre was re-opened about June, 1928. A letter from the exhibitor dated October 6, 1927, addressed to the Exchange, wherein he agreed to play out the contracts in question at the new theatre when it would be opened. Dates were set in by the Exchange under date of July 26, 1928, for five issues of even News, and five issues of odd News, amounting to a total of $30.00. Five issues of Fables amounting to $10.00, and five features amounting to $125.00, making a total of $165.00, the pictures being dated as follows:

Fighting Love	$25.00	8/13/28
Jewels of Desire	$25.00	8/20/28
White Gold	$25.00	8/27/28
The Night Bride	$25.00	9/ 3/28
Rej. of Aunt Mary	$25.00	9/10/28
No. 64 News	$ 3.00	8/13/28 and every week
No. 65 News	$ 3.00	8/16/28 and every week
Fables	$ 2.00	8/13/28 and every week

Exchange also asked for completion of the contracts, in accordance with the terms of the contracts.

Decision: That the exhibitor pay to the exchange within seven days from date $165.00, representing the pictures {Vol. 2988} dated in and refused, and that he complete the balance of the contracts in accordance with the terms of the contracts and upon failure of the exhibitor to comply with the decision of the Board, then the Distributor or any other Distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $200.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, 20th Century Ex. vs. F. Romano, Oriole Theatre, White Haven, Pa., and Keystone Theatre, Weatherly, Pa.

Mr. Wittman acted as Chairman.

Committees: Exchanges, Landau, Goodman, Blofson; Exhibitors, Power, Price, Goldman.

Claim: Contracts were signed November 23, 1927, and March 23, 1928, by F. Romano, for 19 pictures, 3 of which had been played and 16 remain unplayed. The last picture on the November 23, 1927, contract played August 27, 1928. Numerous dates were requested and on July 19, 1928, the exchange set in the following dates:

August 11, 1928.	Out of the Past	$10.00
	postage, 72¢	
	return postage, 48¢	
" 18, 1928.	The Nest	10.00
Sept. 9, 1928.	Outlaw Breaker	7.50
" 8, 1928.	Broadway Madness	10.00
" 15, 1928.	On the U. P. Trolley	10.00

amounting to $58.70.

The exhibitor was present and stated that his theatre, starting with June 1928, was open only one night a week, and that was Saturday night, and it was impossible for him to play all the pictures which he had with the various exchanges but he did attempt to pro-rate the pictures. That about October 1928, he expected to re-open the theatre six nights a week.

Case #7 being a case by the same exchange against the same exhibitor covering the Keystone Theatre, Weatherly, Pa., was considered by the Board in conjunction with the preceding case; the facts involved were similar, with the exception that the contract for the Weatherly Theatre provided for 19 pictures and six had been played, leaving 13 unplayed, and that the last picture played on the contract of Nov. 23rd, was June 4, 1928, and the last picture played on the contract of March 23rd, was August 29, 1928, and on July 19th, the Exchange set in the following dates for the Weatherly theatre, which pictures also were not played by the exhibitor—

August 18, 1928.	Your Wife and Mine	10.00
" 25, 1928.	Iron Rider	7.50

[fol. 2989]

Sept. 1, 1928.	Broadway After Midnight	10.00
Sept. 8, 1928.	On the U. P. Trolley	10.00

The claim in this case amounting to $37.50.

Decision: That the exhibitor pay to the Exchange within seven days from date $58.70, representing the rental value of the pictures he did not lift for the Oriole Theatre, White Haven, Pa., and in addition, that he pay $37.50 representing the rental value of the pictures he did not lift for the Keystone Theatre, Weatherly, Pa., that the exhibitor have

the privilege and right to re-book the pictures involved both at the Oriole and Keystone Theatres, and that the exhibitor complete the balance of the unplayed pictures on both contracts for the respective theatres covered by the contracts at the rate of one picture a week when the theatres re-open six nights a week, and the re-opening of the said theatres and the beginning of the playing of the pictures at the rate of one a week, shall not be later than October 1, 1928, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were marked postponed to Friday, Sept. 21, 1928:

Columbia Pictures vs. H. Fried, Berwyn Theatre, Berwyn, Pa.
Penn Productions vs. E. Eggenweiler, Orpheum, East Mauch Chunk, Pa.
Pathe Ex. vs. Ritz Theatre, Phila.
Pathe Ex. vs. Ferrara Theatre, Landisville, N. J.
Tiffany vs. Ferrara Theatre, Landisville, N. J.
Educational vs. Ferrara Theatre, Landisville, N. J.
Paramount vs. Ferrara Theatre, Landisville, N. J.

The following cases were marked settled or withdrawn:

Columbia Pictures vs. Germantown Theatre, Phila.
DeLuxe vs. Universal Theatre, Benton, Pa.
Pathe Ex. vs. Victoria Theatre, Frackville, Pa.
Columbia Pictures vs. Palace Theatre, Sheppton, Pa.
Columbia Pictures vs. 24th Street Theatre, Phila.
" " " Ruby Theatre, Phila.
" " " Elite Theatre, Phila.
20th Century Ex. vs. Broadway Theatre, Wilmington, Delaware.

20th Century Ex. vs. Palace Theatre, Pen Argyl, Pa.
20th Century Ex. vs. Mt. Joy Theatre, Mt. Joy, Pa.
Universal Exchange vs. Grand Theatre, Ephrata, Pa.
Universal Exchange vs. Elm Theatre, Phila.

Respectfully submitted.
George P. Aarons, Secretary, Joint Board of Arbitration.

GPA:ASH.

[fol. 2990] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, September 21, 1928, at 11.00 a. m., 1337 Vine St., Philadelphia, Penna.

Case #1, Metro-Goldwyn-Mayer vs. J. A. Zinkoff, Victoria Theatre, Westville, New Jersey

Committees: Exchanges, Landau, McFadden, Goodman; Exhibitors, Pizor, Goldman, Power.

Claim: This was a claim brought by Metro-Goldwyn-Mayer for $2.00, representing the cost of the News booked to the exhibitor Aug. 29, 1928, which the exhibitor failed to pick up, and for completion of the balance of the contract of 52 weeks. Contract provided for two issues per week. Playing arrangement was to follow the then existing contract.

It appeared that the exchange had a contract with the exhibitor expiring August 22, 1928. The contract in question was signed June 29, 1928. The exchange exhibited a contract approved by the home office on July 7th, and which approved copy was received by the Philadelphia office July 9th, 1928, and contended that this approved copy of contract was sent on July 9th, 1928 to the exhibitor.

Exchange did not produce copy of any letter to substantiate this claim.

Exhibitor was present and produced an envelope with a postmark of July 9th, 1928, and alleged that the approved contract, without any letter, reached him on July 12th, and that it was contained in the said envelope.

Decision: The Board after hearing all the evidence, decided that the claim be dismissed, and that the contract in question be declared null and void.

Case #2, Penn Productions vs. E. Eggenweiler, Orpheum, East Mauch Chunk, Penna.

Committees: Same as in Case #1.

Claim: Date of contract October 4, 1927, signed by E. Eggenweiler, covered four features and four two reelers. Two pictures were played and two two reelers, leaving two features unplayed and two two reelers. Date of last picture played January 25-26, 1928. No playing arrangement. The Exchange had requested dates many times and on July 9, 1928, exchange set in dates. The exhibitor had written to the exchange requesting that the dates be set in October and November, and the exchange refused to do so and demanded payment of the pictures in question, which were not lifted by the exhibitor, being set in for play by the exhibitor—One feature and one short subject July 25th, amounting to $15.00, and one feature and one short subject for July 31st, amounting to $15.00, making a total of $30.00, and in addition thereto, parcel post amounting to $1.29.

Exchange advised that exhibitor complained about the condition of the prints, and the Exchange testified further that the prints were in good condition and were runnable.

[fol. 2991] Decision: That the exhibitor pay to the exchange within seven days from date $31.29, covering the above pictures and short subjects, plus parcel post charges, and that the exhibitor shall have the privilege of re-booking the pictures and replaying them, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, F. B. O. vs. Laurel Springs Improvement Co., former owners of the Laurel Theatre, Laurel Springs, N. J.

Committees: Exchanges, Landau, Maury, Goodman; Exhibitors, Pizor, Goldman, Power.

Claim; Contract in question was dated April 17th, 1928, signed by Hagerty on behalf of the Laurel Springs Improvement Co. It appears that the theatre has now changed hands, and the present owner does not assume the contracts. There were remaining two features and two comedies in the amount of $30.00 unplayed and unprovided for.

Decision: That the exhibitor pay to the exchange within seven days from date $30.00.

The Secretary then presented a letter from Harry Fried, of the Anthony Wayne Theatre, Wayne, Pa., for a reopening of the case of Pathe vs. Anthony Wayne Theatre, heard by the Board of Arbitration and decision rendered September 14th, 1928. The Board, on vote, denied the application.

The following cases were marked settled or withdrawn:

Columbia vs. Berwyn Theatre, Berwyn, Pa.
Columbia vs. Bryn Mawr Theatre, Bryn Mawr, Pa.
Pathe vs. Ritz Theatre, Phila.
Pathe vs. Ferrara Theatre, Landisville, N. J.
Tiffany vs. Ferrara Theatre, Landisville, N. J.
Educational vs. Ferrara Theatre, Landisville, N. J.
Paramount vs. Ferrara Theatre, Landisville, N. J.
F. B. O. vs. Rivoli Theatre, Phila.
Tiffany vs. Standard, Camden, N. J.
Pathe vs. Seville Theatre, Bryn Mawr, Pa.
Nujoy Theatre, Port Norris, N. J. vs. Fox Films Co.
20th Century vs. O. H. Girardville, Pa.
Universal vs. Victoria Theatre, Westville, N. J.

Respectfully submitted.
Geo. P. Aarons, Sec. Joint Board of Arbitration.

GPA:ASH.

[fol. 2992] Minutes of the meeting of the Joint Board of Arbitration held Friday, October 5th, 1928, at 11:00 A. M., 1337 Vine Street, Philadelphia, Pa.

Mr. Pizor acted as chairman.

Case #1, Fox Film Corporation vs. Gene E. Burrows, City Theatre, Williamsport, Pa.

Committees: Exhibitors, Messrs. Price, Pizor, and Power; Distributors, Messrs. Appelgate, Neufeld, and Heenan.

Claim: This claim arose out of contract dated November 11, 1927, for features, comedies, and news reels. The exhibitor had closed the theatre; either indefinitely or permanently, on or about August 1st, and had made no provision for the completion of these contracts. The distributor, therefore, made claim in the amount of $455.83, covering the uncompleted portion of their contracts.

The exhibitor was not present.

Decision: That the exhibitor be required to pay to the distributor within seven days from the date hereof, the sum of $455.83, covering the unplayed portion of the contract dated November 11, 1927. Upon the failure of the exhibitor to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may, at the option of each one of such distributors, demand for its protection, and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Tiffany Stahl Productions vs. Louis Berman, Savoy Theatre, Bethlehem, Pa.

Same Committees as in Case #1.

Claim: This claim arose out of a contract dated July 9, 1927, for 15 pictures, of which 8 had been played to date;

leaving 7 unplayed. Playing arrangement in the contract provided that same started Sept. 1927, if available, and to be completed by Sept. 1928. Numerous requests had been made for play dates, and upon the failure of the exhibitor to supply dates, the distributor, on August 2nd, assigned the dates, and notified the exhibitor by registered mail. Six pictures had been refused from Aug. 27th to Oct. 4th, inclusive, and the seventh picture necessary to complete the contract was dated for Oct. 18-19-20. The distributor made claim for $600.00, covering the rental price of the six pictures refused, and that the balance of the contract be completed in accordance with the terms thereof.

The exhibitor was not present.

[fol. 2993] Decision: That the exhibitor be required to pay to the distributor within seven days from the date hereof, the sum of $600.00, covering the rental of six pictures refused since Aug. 27, 1927, which were booked in accordance with the terms of the contract. It is further decided that the exhibitor shall be required to play or pay for the balance of the pictures under contract, in accordance with the terms thereof. Upon the failure of the exhibitor to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may, at the option of each one of such distributors, demand for its protection, and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Masterpiece Film Attractions vs. H. Axler, Bellevue Theatre, Philadelphia

Committees: Exhibitors, Messrs. Perelman, Pizor and Powers; Distributors, Messrs. Applegate, Neufeld, and Heenan.

Claim: The distributor submitted in evidence, contract dated June 29, 1927, signed by H. Axler, for 12 pictures, of which 6 had been played to date; leaving 6 unplayed.

"Lawful Cheaters," one of the pictures under contract, was played by the exhibitor on June 29th, but not paid for; rental price $60.00. "Hearts of Men," dated Sept. 13th, and "Queen of the Chorus" Sept. 14th, were dates submitted by the exhibitor, and refused. The distributor had requested dates on the pictures, "Thunder God," and "Obey Your Husband," by sending notices of availability, and upon the failure of the exhibitor to select dates, the distributor assigned dates by giving proper notice thereof, as follows: "Thunder God" for Sept. 28th; "Obey Your Husband" Oct. 6th. "Thunder God" had also been refused on the date assigned, and the distributor assumed that "Obey Your Husband" would be refused on Oct. 6th. The distributor made claim in the sum of $160.00, covering the rental of the pictures above mentioned, which had been refused to date; plus the $60.00 for the picture "Lawful Cheaters," which had been used but not paid for, and that the exhibitor be required to complete the contract in accordance with the terms thereof.

Defense: The exhibitor contended that "Lawful Cheaters" had been misrepresented to him; that at the time that he bought the picture, it was represented as a brand new picture, and that when he played same, he found it to be three or four years old. He, therefore, felt that he should not be required to pay for the rental of same. With regard to the picture, "Queen of the Chorus," the exhibitor contended that he came into the office of the distributor, and asked to have the date on this picture changed from Sept. 14th, to Sept. 26th, and assumed that the date had been changed, and advertised the picture with posters and window cards, but when he called for the picture on Sept. [fol. 2994] 26th, it was refused to him, unless he agreed to pay for other pictures which he had not used. With regard to "Thunder God" and "Obey Your Husband," on which the dates had been assigned, the exhibitor contended that the distributor did not give him sufficient courtesy in affording him an opportunity to select his own play dates. On the picture "Hearts of Men," he submitted a number of dates, but in each case, was advised that the dates he desired were not open.

Rebuttal: The distributor denied that there was any misrepresentation as to the picture "Lawful Cheaters," and

claimed that the exhibitor was well aware of the caliber of picture and this was represented to be. The distributor called attention to a previous case when the exhibitor received an award on a Clara Bow picture, and in which the distributor, at that time, offered to cancel the picture, "Lawful Cheaters," but the exhibitor did not desire that same be cancelled. The distributor further denied that the "Queen of the Chorus" was booked to the exhibitor for use on Sept. 26th. It appears that the exhibitor came into their office on or about Sept. 12, and requested that the date on this picture be changed from Sept. 14th to Sept. 26th, but in view of the very short notice; the distributor refused to accept a change of date. The distributor contended that they could not have furnished the exhibitor a print of this production for Sept. 26th, because it was not then available.

Decision: That the exhibitor pay to the distributor within seven days from the date hereof, the sum of $160.00, for the three pictures, "Hearts of Men," "Queen of the Chorus," and "Thunder God," booked in accordance with the terms of the contract, and acceptance thereof refused, and the picture, "Lawful Cheaters," which was exhibited by the exhibitor, but not paid for. It is further decided that the exhibitor be required to complete the balance of the contract in accordance with the terms thereof. Payment of the amount above mentioned shall give the exhibitor the privilege of redating the pictures refused at any future time, without charge, and that the protection granted under the contract on these pictures is waived. Upon the failure of the exhibitor to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may, at the option of each one of such distributors, demand for its protection, and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Universal Film Exchange vs. L. Litto, Riverside Theatre, Bristol, Pa.

Same committees as in Case #1.

Claim: The distributor advised that at the time that this claim was filed with the Board of Arbitration, it covered several series of comedies, but that the exhibitor had since [fol. 2995] submitted satisfactory play dates on all of the other series with the exception of the Oswald series, and the distributor, therefore, desired to reduced his claim to cover the Oswald series only. The distributor submitted in evidence, contracts dated June 6, 1927, for 26 Oswald comedies, of which 5 had been played to date. They had requested play dates on this series numerous times and failing to receive same, they set the dates for one Oswald comedy each week; beginning Sept. 13th. Four of these comedies had been refused up to this time, and the distributor made claim of $10.00, for the four Oswald comedies which had been refused to date, and that the balance of the Oswald comedies be played or paid for as they are now scheduled.

Exhibitor was not present.

Decision: That the exhibitor pay to the distributor within seven days from the date hereof, the sum of $10.00, covering the rental of four Oswald comedies, booked in accordance with the terms of the contract, and acceptance thereof refused. It is further decided that the exhibitor shall play or pay for the balance of the pictures of the Oswald comedies under contract, in accordance with the terms thereof. Upon the failure of the exhibitor to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may, at the option of each one of such distributor, demand for its protection, and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Universal Film Exchange vs. Louis Linker, Lenox Theatre, Philadelphia, Pa.

Same Committees as in Case #4.

Claim: This claim was for breach of contract on contracts dated July 15, 1927, which had been signed by Columbus Stamper, and assigned to Louis Linker, on Dec. 6, 1927. Also contract dated Jan. 7, 1928, which was signed by Linker. Claim was for $100.00, covering the rental of ten comedies, which had been refused between Aug. 24th, and Oct. 7th, of the series of Stern Bros. Newlyweds, and Buster Brown comedies, on which dates had been requested numerous times and upon the failure of the exhibitor to select his own play dates, dates were assigned on Aug. 9th, in accordance with the terms of the contract. The distributor asked for an award in the above amount, and that the exhibitor be required to complete the contracts covering the Stern Bros., Buster Brown, and Newlywed series of comedies, by playing or paying for them in accordance with the terms of the contracts.

The exhibitor was not present.

[fol. 2996] Decision: That the exhibitor pay to the distributor, within seven days from the date hereof, the sum of $100.00, covering the Newlywed, Buster Brown, and Stern Bros. comedies, booked for the exhibitor's use on Aug. 24th, to Oct. 5th, inclusive, and acceptance thereof refused. It is further decided that the exhibitor shall play or pay for the balance of the Stern Bros., Buster Brown, and Newlywed comedies, in accordance with the terms of the contracts covering these series of comedies. Upon the failure of the exhibitor to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may, at the option of each one of such distributor, demand for its protection, and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts, as held by the members of the Philadelphia Film Board of Trade.

Case #6, Paramount Famous Lasky Corp. vs. H. Hartman, Legionaire Theatre, Milton, Pa.

Committees: Same as in Case #5.

Claim: This claim was on a contract dated Nov. 28, 1927, signed by H. Hartman, covering 8 pictures, all of which had been played to date. One of the pictures under this contract, "Gentlemen Prefer Blondes," was played by the exhibitor on Sept. 3rd and 4th, on a percentage basis, the contract providing that the guarantee rental was not to exceed 40% of the gross receipts. After the picture had been played, the exhibitor had submitted his box office statement, showing that the receipts on this picture were $171.30; the distributor's share of this amount being $68.52. The distributor had also shipped to the exhibitor, advertising matter on this production, amounting to $3.26. The distributor made claim for $71.78, covering their percentage of the receipts on this production, plus the advertising matter.

The exhibitor was not present.

Decision: That the exhibitor pay to the distributor within seven days from the date hereof, the sum of $68.52, covering the rental of the picture, "Gentlemen Prefer Blondes," which was exhibited by the exhibitor on Sept. 3rd and 4th, and payment for same refused. Upon the failure of the exhibitor to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may, at the option of each one of such distributor-, demand for its protection, and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contract, as held by the members of the Philadelphia Film Board of Trade.

[fol. 2997] The following cases were withdrawn:

Fox Film Corporation vs. Seville Theatre, Bryn Mawr, Pa.

20th Century Film Co. vs. City Theatre, Williamsport, Pa.

20th Century Film Co. vs. Riverside Theatre, Bristol, Pa.
F B O Pictures Corp. vs. Roxborough Theatre, Roxborough, Pa.

The following cases were postponed until Oct. 12th:

Columbia Pictures Corp. vs. Majestic Theatre, Gettysburg, Pa.
Columbia Pictures Corp. vs. Majestic Theatre, Shamokin, Pa.
Columbia Pictures Corp. vs. Majestic Theatre, Tamaqua, Pa.

The following case was postponed indefinitely:

Universal Film Exchange vs. Hippodrome Theatre, Ocean City, N. J.

[fol. 2998] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, October 12, 1928, at 11:00 A. M., 1337 Vine St., Phila.

Mr. Applegate acted as Chairman.

Case #1, F. B. O. vs. Jos. Emashovsky, Globe Theatre, Nanticoke, Pa.

Committees: Exchanges, Applegate, Heenon, Neufeld; Exhibitors, Pizor, Power, Goldman.
Exhibitor not present.
Claim: There were two contracts, first one dated August 20, 1925, for 52 pictures, 50 played and 2 remained unplayed. Date of last picture played was May 21, 1928. Second contract was dated April 19, 1927, for 54 pictures, 23 played and 31 remain unplayed. Last picture played was October 4, 1928. The playing arrangement on the second contract was for one or more features per week, starting the second week in August, 1927.
The Exchange had requested play dates many times, which were not furnished, and on August 27, 1928, the Exchange set in the dates as follows:

9/11. Doubling With Danger, which was on the first cont.	$10.
9/25. Flashing Fans	10.
10/2. Home Struck	7.50
10/9. Collegiate	7.50

Exhibitor failed to lift any of the pictures.

Decision: That the exhibitor pay to the Exchange within seven days from date $25.00, covering the pictures which he did not lift, which were on the second contract dated April 19, 1927, and that he complete the balance of this contract of April 19, 1927, in accordance with the terms of the contract, and that the claim based on the contract of August 20, 1925, be dismissed, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2. Geo. H. Gravenstine, Carmen Theatre, Phila., vs. Universal

Committees: Same as in Case #1.

Exhibitor was present.

Claim: This was a case brought before the Board for interpretation of a number of contracts now existing for the product of 1928-29. The exhibitor presented his claim as follows: That before the contracts in question were signed, the salesman, Mr. Engle, called upon him and represented that the Exchange had 12 of the pictures on the [fol. 2999] contract in the house. That the exhibitor would get the pictures at an average rate of three a month. That the exhibitor would not be held up on play dates.

The exhibitor further testified that he signed the contract with this understanding and that he was induced to so sign it, when the contracts came back approved, they came back with the notation "To be played within 15 days after availability notice" and that there would be first showing in North Philadelphia from Market Street to City Line and from river to river, day and date with the Germantown Theatre.

Contract provided for 32 pictures, that the playing season of the Carmen Theatre was from September to September. In this Mr. Gravenstine was corroborated by the testimony of his manager, Mr. Goldberg.

Mr. Engle, representing the Exchange, admitted the statements made by both Mr. Gravenstine and Mr. Goldberg, and that at the time contracts were signed and negotiations were had, Mr. Engle believed that the exhibitor would get the pictures beginning October.

The theatre had repeatedly requested play dates and they were not furnished; the excuse being that the first run had not played.

Mr. Wittman presented as a defence that he was present at the time the contracts were signed, that he suggested that the playing arrangement had to go into the contract, i. e., 15 days after the first-run in Philadelphia. He admitted that he did not explain to the exhibitor that there would be a possibility that the contract might not be delivered in December insofar as the first run had not been set. That it was not delivered the week of October 15th, that the first picture was being played by the first run. Further, he would not have taken the contract if he had been compelled to stipulate the number of pictures which he had to play each month to the exhibitor. Furthermore, that the contract provides that any pictures not suitable for the Carman Theatre could be played at the Galard Theatre, which theatre is directly opposite the Carman Theatre.

Decision: This Board interprets the contracts, upon which this claim was brought, as follows: "That the exhibitor shall be obligated to play no more than three pictures each month during the term of one year, beginning with the first play date under the contracts."

Case #3, Universal Ex. vs. Colonial Theatre, Beach Haven, N. J.

Committee: Exchanges, Applegate, Heenon, Neufeld; Exhibitors, Perlin, Power, Goldman.

Exhibitor not present.

Claim: Date of contracts July 18, 1927, signed by Harry Colmar for 26 pictures, 20 of which had been played, 6 re-

main unplayed. Date of last picture played August 23, 1928. Playing arrangement starting October 4, 1927, "One every other week."

[fol. 3000] The exhibitor booked the pictures himself on a weekly schedule, and the exhibitor refused to lift the following pictures on the dates on which he set, and on which dates the pictures had been shipped to him:

9 9 28.	Buck Privates	$12.50	
	Parcel Post Charges	1.39	
			$13.89
9 13 28.	Four Flusher	12.50	
	P. P. Charges	1.39	
			13.89
9 20 28.	Midnight Rose	12.50	
	P. P. Charges	1.39	
			13.89
9 27 28.	Thanks for the Buggy Ride	12.50	
	P. P. Charges	1.44	
			13.94
10 4 28.	Hot Heels	12.50	
10 11 28.	Jazz Mad	12.50	
			25.00
	Total		$80.61

Decision: That the exhibitor pay to the Exchange within seven days from date $80.61 covering the above pictures, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Columbia Pictures vs. F. Hollister, O. H., Girardville, Pa.

Committees: Same as in Case #3.

Exhibitor not present.

Claim: Date of contract 1 24 28, signed by Frank Hollister for 15 pictures, three played and 12 remain unplayed. Date of last picture played was September 13, 1928. Playing arrangement "As available". Exhibitor failed to lift picture Alias the Lone Wolf dated August 30, 1928, rental of the picture with parcel post charges amounting to $16.47.

Decision: That the exhibitor pay to the exchange within seven days from date $16.47 covering the above picture, and that he complete the balance of the contract in accordance with the terms of the contract, and upon his failure to comply with the decision of the Board, then the distributor [fol. 3001] or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection, and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $100.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Columbia Pictures vs. J. F. Higgins, Majestic, Shamokin, Pa.

Committees: Same as in Case #4.

Exhibitor not present.

Claim: Contract signed August 19, 1927, by Higgins & Son for 39 pictures, 21 played and 9 pictures unplayed. The first picture played Novembebr 11, 1927, and the last picture played October 10, 1928. There was no playing arrangement. Beginning with December 6, 1927, and up to June 8, 1928, the Exchange had requested play dates, and finally on June 21, 1928, the Exchange set in the following play dates:

8/13.	So This Is Love	$50.00
8/27.	Sporting Age	50.00
9/3-4.	Desert Bride	125.00
10/15.	Name the Woman	50.00
10/22-23.	Ransom	125.00
10/29.	Way of Strong	50.00
11/5.	Beware of Blondes	50.00
11/12-13.	Say With Sables	125.00
11/19.	Virgin Lips	50.00

Decision: That the exhibitor pay to the exchange within seven days from date $225.00, representing the rental value of three pictures which he failed to lift, dates set for August 13, August 27, and Sept. 3rd and 4th, and that he pays for the balance of the pictures on the dates as set, and upon the failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $500.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, Columbia Pictures vs. J. F. Higgins, Majestic, Gettysburg, Pa.

Committees: Same as in case #5.

Exhibitor not present.

Claim: Contract dated August 19, 1927, signed by Higgins & Son covering 30 pictures, 13 played, the first being May 4-5, 1928, 17 pictures remain unplayed. The date of [fol. 3002] the last picture played was October 3, 1928. There was no playing arrangement. Beginning with December 6, 1927, and up to June 8, 1928, the Exchange had requested play dates, and finally on June 21, 1928, the Exchange set in the following play dates:

Opening Night	7/27-28	$50.00
Lady Raffles	9/10	35.00
So This Is Love	9/17	35.00
A Woman's Way	9/24	35.00
Sporting Age	10/1	35.00
Matinee Idol	10/8	35.00
Broadway Daddies	10/15	35.00
After the Storm	10/22	35.00
Golf Widows	10/29	35.00
Name the Woman	11/5	35.00
Modern Mothers	11/12	35.00
Way of the Strong	11/19	35.00
Beware of Blondes	11/26	35.00
Desert Bride	10/12-13	50.00
Virgin Lips	12/3	35.00
Ransom	11/16-17	50.00
Say With Sables	11/30, 12/1	50.00

Decision: That the exhibitor pay to the exchange within seven days from date $225.00, representing the pictures that he failed to lift, that were dated on July 27, Sept. 10, Sept. 17, Sept. 24, October 1, and October 8, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $500.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #7, Columbia Pictures vs. Majestic (J. F. Higgins), Tamaqua, Pa.

Committees: Same as in Case #6.

Exhibitor not present.

Claim: Contracts dated August 19, 1927, signed by Higgins & Son, for 30 pictures, 13 played, leaving 17 unplayed. The first picture played February 14-15, 1928. Date of last picture played Sept. 27, 1928. Playing arrangement "none." Beginning with Dec. 6, 1927, and up to June 8,

1928, the Exchange had requested play dates, and finally on June 21, 1928, the Exchange set in the following play dates:

Thru Darkest Africa	4/5–6	$25.00
By Whose Hand	7/23	30.00
The Siren	8/6	30.00
That C. Thing	8/13	30.00
Wife's Relations	8/20	30.00
Lady Raffles	8/27	30.00
So This Is Love	9/3	30.00
Matinee Idol	9/24	30.00
Broadway Daddies	10/1	30.00
Golf Widows	10/15	30.00
Modern Mothers	10/22	30.00
Name the Woman	10/29	30.00
Way of the Strong	11/12	30.00
Beware of Blondes	11/19	30.00
[fol. 3003] A Woman's Way	9/10	30.00
Sporting Age	9/17	30.00
Say It With Sables	11/26–27	75.00
Virgin Lips	12/3	30.00

Decision: That the exhibitor pay to the Exchange within seven days $325.00, representing the rental value of the pictures not lifted by him on the dates set in on April 5th and 6th, July 23rd, August 6th, August 13th, August 20th, August 27th, Sept. 3rd, Sept. 10, Sept. 17th, Sept. 24th, October 1st, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $500.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were marked settled:

F. B. O. vs. Standard Theatre, Camden, N. J.
First National vs. Hippodrome Theatre, Ocean City, N. J.
Carman Theatre vs. F. B. O.

F. B. O. vs. Peters Theatre, Reedsville, Pa.
F. B. O. vs. McTague Theatre, Coaldale, Pa.

The following case was withdrawn from the time being:

Liberty Film Corp. vs H. Fried, Seville Theatre, Bryn Mawr, Pa.

The following case was postponed to 10/19/28: Fox Ex. vs. Franklin Theatre, Phila., Pa.

The following case was postponed to 10/26/28: First National vs. Standard Theatre, Camden, N. J.

Respectfully submitted.
George P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 3004] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, October 19th, 1928, at 11:00 A. M., 1337 Vine St., Phila.

Mr. N. F. Power acting as Chairman.

Case #1, United Artists vs. Flood's Theatre, New Philadelphia, Pa.

Committee: Exchanges, Neufeld, Applegate, Heenon; Exhibitors, Power, Goldman, Pizor.

Claim: 5 contracts for 5 individual pictures dated 11/23/27, signed by S. J. Flood. Pictures were played. Playing arrangement "To be played or paid for within 90 days of notice of availability." Dates were requested June 20, 1928, July 27, 1928, and dates were set August 14, 1928. Amount of the claim is $187.33 for pictures refused on the following dates:

9/10–11.	Devil Dancer	$30.00
9/24–25.	Dove	50.00
10/ 8- 9.	Ramona	35.00
10/15–16.	Garden of Eden	35.00
10/22–23.	Drums of Love	35.00
	Parcel post chgs	2.33
		$187.33

Decision: That the exhibitor pay to the Exchange within seven days from date $187.33 covering the five pictures refused, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, United Artists vs. Rev. S. C. Musures, Sacred Heart Church, New Philadelphia, Pa.

Committees: Same as in Case #1.

Claim: 2 pictures on 2 separate contracts dated 7/6/26 and 4/25/28. Contracts signed by the Rev. S. C. Musures. No pictures played. Dates requested 6/20/28, 7/27/28. Dates were set August 14, 1928. Claim is for $74.83 made up as follows:

9/12–13.	Gaucho	$35.00
	P. P	2.41
9/17–18.	Winning of Barbara Worth	35.00
	P. P	2.42
		$74.83

Decision: That the exhibitor pay to the Exchange within [fol. 3005] seven days from date $74.83 covering the two pictures in question, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under

each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Universal Ex. vs. L. Berman, Savoy Theatre, Bethlehem, Pa.

Committees: Same as in case #1.

Claim: 5 contracts dated July 21, 1928, for features and short subjects to the total number of 30 pictures. None were played. Dates were requested August 17, 1928, and dates were set on Sept. 1, 1928. Amount of the claim is $701.54 for the following pictures:

9/17–19.	Jazz Mad	$150.00
9/24–26.	Homes James	150.00
	Ex. Chg.	.77
	Re. Chg.	.77
9/27–28.	Any. Seen Kelly	150.00
10/ 8–10.	Night Bird	250.00
		$701.54

and completion of the balance of the contract, in accordance with the terms of the contract. Also a contract under the same date for 12 Collegians and 52 comedies. 2 Collegians had played and 2 comedies played, leaving 10 unplayed Collegians and 50 Comedies. Playing arrangement "One every 2 weeks beginning Sept. 19, 1928." Numerous dates were requested. Total claim of this contract is $161.73 and completion of the balance of the contract, in accordance with the terms of the contract.

9/26–28.	Newlyweds Hard Luck (Stern)	$35.00
10/ 8–10.	Just Wait (Stern)	27.50
	P. P. both ways	.85
10/ 4– 5.	Kicking Thru	40.00
	P. P. Both Ways	.88
10/15–17.	Look Pleasant	27.50
10/18–20.	Buster Tunes Up	30.00
		$161.73

Decision: That the exhibitor pay to the Exchange within seven days from date $863.27 covering the above pictures,

and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of [fol. 3006] this and all other existing contracts between the distributor members of the Philadelphia Film Board of Trade and the exhibitor, a sum not to exceed $500.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Universal Exchange vs. H. Nayor, Opera House, Columbia, Pa.

Committees: Exchanges, Neufeld, Applegate, Heenon; Exhibitors, Perlin, Axler, Power.

Claim: Contract dated 10/7/27, signed by Columbia Amusement Corp., H. Nayor, for one picture. None played. The contract covered the picture Phantom of the Opera, which was to have been played on September 28, 1928. Rental value $50.00, and exhibitor failed to lift the show.

Decision: That the exhibitor pay to the Exchange within seven days from date $50.00 covering the cost of the picture, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the faithful performance of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, 20th Century Exchange vs. A. J. De Fiore, Broadway, Wilmington.

Committees: Same as in Case #4.

Claim: Contract dated June 29, 1926, signed by A. J. DeFiore, for 44 pictures, 20 played, leaving unplayed 24.

Date of last picture played was May 24, 1928. There was no playing arrangement. Dates were set July 7, 1928. Claim is for $16.08, made up as follows:

$7.50 for Riding Romance played by exhibitor on 9/21/28, which he did not pay, and
$7.50 for Roaring Bill Atwood, booked by the exhibitor for 9/28/28, which he failed to lift.
$1.08 for postage.

$16.08

Decision: That the exhibitor pay to the exchange within seven days from date $16.08 covering the above pictures, and upon his failure to comply with the decision of the Board, then the distributor, or any other distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in [fol. 3007] such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were reported settled:

F. B. O. vs. New Allen Theatre, Allentown, Pa.
F. B. O. vs. Liberty Theatre, Pen Argyl, Pa.
Fox Ex. vs. Franklin Theatre, Phila., Pa.

The following cases were postponed to Friday, Oct. 26, 1928:

Penn Productions vs. Bellevue Theatre, Phila.
Universal Ex. vs. Bellevue Theatre, Phila.
F. B. O. vs. American Theatre, Trenton, N. J. (Hildinger).
Pathe vs. Hights Theatre, Hightstown, N. J. (Hildinger).
Pathe vs. Bijou Theatre, Trenton, N. J. (Hildinger).
Pathe vs. Hights Theatre, Hightstown, N. J. (Hildinger).
Fox vs. Hights Theatre, Hightstown, N. J. (Hildinger).

Liberty Ex. vs. Mr. Hirshfield, Garden Theatre, Trenton, N. J.

Universal vs. Mr. Hirshfield, Strand Theatre, Trenton, N. J.

Educational vs. Mr. Hirshfield, State-Stacey, Trenton, N. J.

Fox Ex. vs. Mr. Hirshfield, Strand, Trenton, N. J.

Respectfully submitted.

Geo. P. Aarons, Secretary, Joint Board of Arbitration.

GPA: ASH.

[fol. 3008] Minutes of the Meeting of the Joint Board of Arbitration held Friday, October 26, 1928, at 11.00 A. M., 1337 Vine St., Phila., Pa.

Mr. Pizor acting as chairman.

Case #1, De Luxe Ex. vs. Sol Brill and Globe Amusement Co., Bethlehem, Pa.

Committees: Exchanges, Applegate, McFadden, Neufeld; Exhibitors, Price, M. Berman, Pizor.

Claim for $515.00, being the value of contract dated 4/9/28, which remains unplayed. It appeared that on or about June 21, the theatre was closed without provision being made for the contract.

Decision: That the exhibitor pay to the Exchange within seven days from date $515.00 covering the value of the contract.

Case #2, Tiffany-Stahl vs. I. Zatkin, Standard Theatre, Camden, N. J.

Committees: Same as in Case #1.

Exhibitor not present.

Claim: Contracts were dated June 13, 1927 and August 27, 1927, signed by I. Zatkin for 29 pictures, 5 played leaving two unplayed. Date of last picture played October 25, 1928. Playing arrangement "Two a month starting October 15, 1927, if available and to be completed by Sept. 15, 1928." Exhibitor had furnished the playing dates and had failed to lift the shows on the set dates.

10/4/28.	Once and Forever	$12.50
10/8/28.	Streets of Shanghai	12.50
10/16/28.	Girl from Gay Paree	12.50
9/28/28.	Tragedy of Youth	12.50
10/23/28.	Nameless Men	12.50
10/18/28.	Haunted Ship	15.00
		$77.50

and the claim in addition was for the completion of the contract, in accordance with the terms of the contract.

Decision: That the exhibitor pay to the Exchange within seven days from date $77.50 covering the above pictures, and upon his failure to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 3009] Case #3, Tiffany-Stahl vs. F. Hollister, O. H., Girardville, Pa.

Committee: Same as in Case #2.

Exhibitor not present.

Claim: Date of contract Dec. 28, 1927 signed by F. Hollister for 12 pictures, non- of which were played. Playing arrangement "Two per month, starting in April 1928." Exchange had rquested dates numerous times, and on August 24th, 1928, dates were set in by the Exchange for the following pictures, which the exhibitor failed to pick up:

10/ 3/28.	Haunted Ship	$15.00
10/11/28.	Streets of Shanghai	12.50
10/18/28.	Night Life	12.50
10/25/28.	Once and Forever	12.50
		$52.50

and the claim in addition thereto is for completion of the contract, in accordance with the terms thereof.

Decision: That the exhibitor pay to the Exchange within seven days from date $52.50 covering the above pictures, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Columbia Pictures vs. F. Hollister, O. H., Girardville, Pa.

Committees: Same as in case #3.

Claim: Contract dated January 24, 1928, signed by F. Hollister, for 15 pictures, 3 played, 12 remaining unplayed. Last picture played Sept. 13, 1928. Exhibitor set in the following date and failed to lift the production:

Sept. 27, 1928.	Sally in Our Alley, rental price	$15.00
	Parcel post	1.47
		$16.47

and completion of the balance of the contract in accordance with the terms thereof.

Decision: That the exhibitor pay to the distributor within seven days from date $16.47 covering the cost of the above production, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, [fol. 3010] with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia

Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Penn Productions vs. H. Axler, Bellevue Theatre, Phila.

Committees: Exchanges, Applegate, Blofson, Neufeld; Exhibitors, Perelman, M. Berman, Pizor.

Exhibitor present.

Claim: The action was brought first for the rental value of Phantom of the Turf dated by the exhibitor for his use on 8-30-28, rental value $30.00, which the exhibitor failed to lift and play on the date.

Second part of the claim was in the amount of $60.00 covering 10 chapters of a serial at $10.00 per episode, which six episodes were used by the exhibitor on the following dates and not paid for:

July 24, 1928, July 31, August 7th, August 14th, August 21st, August 28th.

The feature contract was dated October 31, 1927, signed by H. Axler, covering 17 Rayart Pictures, upon which 12 had been played, leaving 5 unplayed. The last feature was played August 22, 1928, Heart of Broadway. There was no playing arrangement. The second contract was a serial contract dated February 24, 1927, covering 10 chapters of a serial, the ten chapters of which had been played.

Defence to the first action was that the contract provided protection against the Castle Theatre and that the Castle Theatre played this picture prior to the date of the exhibitor, and that the exhibitor did not play the pictures because of this alleged breach by the exchange.

Mr. Mawbri, representing the exchange, denied this and stated that protection had been given by the exhibitor to permit the Castle Theatre to play this picture, and that the exhibitor did nothing at all since the time the picture was played, which was July 14, 1928, and that the exhibitor had full knowledge of this situation prior to the time that he had given his play date of August 30, 1928.

As to the action on the serial contract, the exhibitor raised the question of the jurisdiction of the Board to hear

this case, insofar as it had been an open account case, and therefore was a collection case, and that the Board was without jurisdiction to hear collection cases.

Upon collection of all the evidence, the Board made the following decision:

[fol. 3011] Decision: First that the exhibitor pay to the exchange within seven days from date $30.00, representing the rental value of the feature Phantom of the Turf dated by the exhibitor for his use for August 30, 1928, and which he failed to lift, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Also the following decision was rendered by the Board, that it is the decision of this Board in reference to the claim on the serial amounting to $60.00 covering episodes played by the exhibitor and not paid for, that the decision in such case will be reserved by this Board for one week from the date hereof.

The following letter was read to the Board:

New York Film Board of Trade, 1560 Broadway, New York City

October 25, 1928.

Mr. Jack Greenberg, Film Board of Trade, 1337 Vine St., Philadelphia, Pa.

My Dear Jack: Mr. Leon Rosenblatt, representing the Hildinger Booking Co., requested me yesterday to grant him another adjournment. The defendant has had one adjournment and, of course, is not entitled to another either under the rules or morally. He has received a Bill of Particulars and has had more than sufficient time to be ready.

However, in view of the seriousness of the claims and our desire that the defendant have no possible excuse of lack of preparedness and because of Mr. Rosenblatt's plea, we are consenting to the exhibitor's request that the case be adjourned until the next regular session of your Board.

Sincerely yours, (Signed) Louis Nizer, Att'y & Executive Sec'y New York Film Board of Trade.

Upon conclusion of the reading of this letter by the Secretary to the Board, the Board postponed the cases as covered by the

[Omission in copy.—Printer.]

[fol. 3012] The following cases were marked settled or withdrawn:

First National vs. Standard Theatre, Camden, N. J.
Columbia Pictures vs. Benn Theatre, Chester, Pa.
Pathe vs. Grand Theatre, East Stroudsburg, Pa.
Interstate vs. Grand Theatre, East Stroudsburg, Pa.
Columbia vs. Capitol, Chambersburg, Pa.
Interstate vs. Westmar Theatre, Norristown, Pa.
Howard and Eagle Theatre vs. Warner Bros.

The following cases were postponed until Friday, Nov. 2, 1928:

E. Eggenweiler, Orpheum, East Mauch Chunk, Pa. vs. F. B. O.
E. Eggenweiler, Orpheum, East Mauch Chunk, Pa. vs. Columbia.
E. Eggenweiler, Orpheum, East Mauch Chunk, Pa. vs. Warner Bros.
Becker Theatre vs. Paramount.
Liberty Exchange vs. Bellevue Theatre, Phila.
F. B. O. Exchange vs. Bellevue Theatre, Phila.
Universal Exchange vs. Bellevue Theatre, Phila.
Columbia Pictures vs. I. Zatkin, Standard Theatre, Camden, N. J.
F. B. O. vs. Hildinger, American Theatre, Trenton, N. J.
Pathe vs. Hildinger, Hights Theatre, Hightstown, N. J.
Pathe vs. Hildinger, Bijou Theatre, Trenton, N. J.
Pathe vs. Hildinger, Hights Theatre, Hightstown, N. J.
Fox vs. Hildinger, Hights Theatre, Hightstown, N. J.

Fox vs. Hildinger, Bijou Theatre, Trenton, N. J.
F. B. O. vs. Hildinger, Hights Theatre, Hightstown, N. J.
Liberty vs. Hirshfield, Garden Theatre, Trenton, N. J.
Universal vs. Hirshfield, Strand Theatre, Trenton, N. J.
Educational vs. Hirshfield, Strand Theatre, Trenton, N. J.
Fox vs. Hirshfield, State-Stacey Theatre, Trenton, N. J.
Fox vs. Hirshfield, Strand Theatre, Trenton, N. J.

Respectfully submitted.

Geo. P. Aarons, Secretary Joint Board of Aribtration.

GPA:ASH.

[fol. 3013] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, November 2nd, 1928, at 11.00 A. M., 1337 Vine St., Phila.

Case #1, Orpheum Theatre, E. Mauch Chunk, Pa., vs. Warner Bros.

Committees: Exhibitors, Pizor, Power, Price; Exchanges, Neufeld, Zagrons, Wittman.

Claim: This was a claim for damages based on the condition of a film Private Izzy Murphy, shipped to the exhibitor for her use April 6, 1928. The picture in question was on a contract dated 1/10/28. The film as received was in such bad condition that after two reels had been run in the evening show, the exhibitor was compelled to close her show, dismiss her patrons and pay back the money she had received.

Defence: That the picture had been received by the exhibitor early in the morning and that she had plenty of time to inspect the film, notify the exchange, and that a new print could have been sent to her on time. The further defense was that from newspaper advertisements in the town, the exhibitor had no intention of playing this picture on the 6th, but intended to play it on the 7th.

This was denied by the exhibitor.

Damages awarded was above $12.90, was the amount the exhibitor had expended to lift the show, and return $5.50 to her patrons, overhead $12.00, in addition to this she was

entitled to some damages for breach of contract in such amount as the Board would decide.

Upon hearing all the evidence, the Board decided as follows:

Decision: That the amount of $40.00 be awarded this exhibitor as damages. This amount to be paid by the exchange within 7 days.

Case #2, Becker's Theatre, Phila., vs. Paramount Laskey Corp.

Committees: Exhibitors, Pizor, Power, Price; Exchanges, Neufeld, Zagrons, McFadden.

Claim: This arose out of a contract dated 11/23/27, and concerned the picture Legion of the Condemned, which was on the contract. Claim for damages in the amount of $150.00. Contract in question provided for protection ahead of the Pastime, Point Breeze and New Colonial Theatres. That on Saturday, October 13th, the Pastime, in violation of the contract, was permitted to play the picture in question; that the theatre suffered damages thereby, and that while the complainant had the picture booked for use at his theatre November 17, 1928, and said play date was confirmed, it would mean a very substantial loss to him insofar as the Pastime Theatre had played it prior.

Defence: It was admitted that the booker had made a [fol. 3014] mistake, the breach was not denied, but insofar as the damages were speculative, that $150.00 damage was excessive.

Decision: It is the decision of this Board that the exhibitor be awarded $50.00 as damages, to be paid within seven days by the distributor, and that the exhibitor receive the picture Legion of the Condemned without charge on the date it is now scheduled.

Case #3, Paramount Ex. vs. J. Zinkoff, Victoria, Westville, N. J.

Committees: Same as in Case #2.

Exhibitor was present.

Claim: Contract in question dated April 26, 1927, covering News. Contract was to start August 13, 1927. The

exhibitor had taken over this contract by an assignment in January 1928. The last News played was Issue #3 on August 18, 1928. Playing arrangement provided "One issue each week." Contract provided that unless 60 days notice of cancellation be given, that the contract would automatically renew itself from year to year. It appears that on July 7, 1928, the exhibitor under the belief that it was a 30 days cancellation clause, gave notice to the Exchange. The exchange denied that this was sufficient notice, and that the contract automatically renewed itself in August 1928 for 52 more issues.

It further appeared that the exhibitor refused the News on August 25th, Sept. 1, 8, 15, 22, and 29, and October 6th, each issue being at $2.00 per issue, or a total amount of $14.00 and the Exchange asked for the payment of the $14.00 and that the exhibitor be compelled to complete the contract.

Decision: That the exhibitor pay $14.00 within seven days from date and complete the balance of the contract from the date of October 6, 1928 to the expiration date of the contract, in accordance with the terms of the contract, and that the cancellation sent under date of July 7, 1928 would become effective in August 1929, and under failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Columbia Pictures vs. F. Hollister, O. H., Girardville, Pa.

Committee: Same as in Case #3.

Claim: Date of contract January 24, 1928, signed by F. Hollister for 15 pictures, 3 pictures had played, leaving 12 unplayed. Date of last picture played was Sept. 13, 1928.

[fol. 3015] The exhibitor had furnished date of October 4, 1928 for Isle of Forgotten Women which he failed to lift; rental value being $15.00 and P. P. charges of 87¢.

The exhibitor was not present.

Decision: That the exhibitor pay to the Exchange within seven days from date $15.87 covering the above picture, which he failed to lift, with parcel post charges, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Columbia Pictures vs. I. Zatkin, Standard Theatre, Camden.

Committees: Same as in Case #4.

Claim: Contract dated Sept. 20, 1927, signed by I. Zatkin for 30 pictures, 10 of which played, leaving 20 unplayed. Last picture played Sept. 20, 1928. Exhibitor had furnished play dates of October 2, 1928 for Fashion Madness, and October 9, 1928 for Stage Kisses. The claim is for $20.00, representing film rental of the two pictures in question, which the exhibitor failed to lift.

The exhibitor was not present.

Decision: That the exhibitor pay to the exchange within seven days from date $20.00 covering the rental value of the two pictures dated by the exhibitor, and upon the failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to

exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, F. B. O. vs. Paul Klinger, McVey Theatre, McVeytown, Pa.

Committees: Exchanges, Neufeld, Zagrons, Given; Exhibitors, Pizor, Power, Goldman.

Claim: It appears that the exhibitor played on July 4, 1928, picture Keeper of the Bees, which he did not pay for. [fol. 3016] The claim is for the rental value of the picture $7.50 and 91¢ postage, or a total of $8.41.

Exhibitor was not present.

Decision: That the exhibitor pay to the exchange within seven days from date $8.41 covering the cost of the above picture, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $100.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #7, 20th Century Ex. vs. F. Hollister, O. H., Girardville, Pa.

Committees: Same as in Case #6.

Claim: Contract dated June 9, 1927, signed by F. Hollister for 12 pictures, 9 of which played, leaving 2 unplayed. Date of last picture played was October 18, 1927. Dates were submitted by the exhibitor for

Broadway Drifter, Sept. 18.
Cross Breed, Sept. 24.

The exhibitor failed to lift these pictures, and the claim was for $31.66, being the rental value of each picture at $15.00, 45¢ being due on postage on a former picture played

on August 28th, and $1.21 being for postage on the two pictures in question.

The exhibitor was not present.

Decision: That the exhibitor pay to the exchange within seven days $31.66 covering the above two pictures, plus postage due, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #8, 20th Century vs. H. Fried, Anthony Wayne Theatre, Wayne, Pa.

Committees: Same as in Case #7.

Exhibitor not present.

[fol. 3017] Claim: Date of contract April 1, 1927, signed by H. Fried for 13 single reels, four of which had been played and 9 unplayed. Date of last picture played Sept. 5-6, 1928.

Exchange had at numerous times requested play dates and on August 15th, the Exchange set in the play dates and the exhibitor failed to lift the pictures, as follows:

Single reel on 9/14/28, 9/21/28, 9/28/28, 10/5/28, 10/12/28, 10/19/28, 10/26/28, 11/2/28, all being in the amount of $2.50 per issue and the total amount being $20.00.

Claim is for $20.00 and that the exhibitor complete the balance of the contract in accordance with the terms thereof.

Decision: That the exhibitor pay to the Exchange within seven days from date $20.00 and complete the balance of the contract in accordance with the terms thereof and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor

of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $100.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #9, Fox Exchange vs. Geo. Osman, Moose Theatre, Tremont, Pa.

Committees: Exchanges, Neufeld, McFadden, Given; Exhibitors, Pizor, Power, Goldman.

Mr. McFadden acted as Chairman.

Claim: Contract was signed July 2 1927, by Geo. W. Osman, covering 58 features, 26 comedies, 26 varieties. There remains unplayed 8 features, 11 comedies, 24 varieties. Last picture played 10/20/28. Playing arrangements "One per week on features, one every two weeks on comedies and varieties".

Exhibitor set the following dates for features:

9/29/28, Old Wives Before New.
10/6/28, Following the Leader.

which pictures he failed to lift. Claim of distributor was for $10.90, representing the rental value of the pictures, which were $5.45 a piece, and completion of the balance of the contract in accordance with the term of the contract.

Decision: That the exhibitor pay to the exchange within seven days from date $10.90, and complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade with whom the ex-[fol. 3018] hibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board

of Trade, a sum not to exceed $100.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #10, Bellevue Theatre, Phila., vs. Liberty Exchange

Mr. Zagrons acted as Chairman.

Committees: Exchanges, Neufeld, Zagrons, Given; Exhibitors, Pizor, Power, Goldman.

This case was dismissed for want of prosecution, as the exhibitor, Mr. H. Axler, was not present, nor had he sent any word to the Board.

Case #11, F. O. B. vs. H. Axler, Bellevue Theatre, Philadelphia, Pa.

Committees: Same as in Case #10.

Claim: Based on a check dated October 8, 1928, given to the exchange in the amount of $185.00 for the payment of a number of pictures played by the exhibitor and not paid for, and which check when presented to the bank by the exchange, was returned marked "Not Sufficient Funds".

The exhibitor was not present.

Decision: That the exhibitor pay to the exchange within seven days from date $185.00, as represented by the check returned N. S. F., and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #12, Penn Productions vs. H. Axler, Bellevue Theatre, Phila.

Committees: Same as in Case #11.

The Board announced that in the matter of the Penn Productions against the Bellevue Theatre, which had been

heard by the Board at its meeting on 10/26/28, which decision had been reserved, that the Board found in favor of the Exchange in the amount of $60.00, representing the 10 episodes of a serial played by the exhibitor and not paid for, that the exhibitor pay to the Exchange within seven [fol. 3019] days the amount of $60.00, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitartion clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were dismissed for want of prosecution, due to the fact that the exchange had no representative present, nor had word been received from the exchange in reference to the cases:

De Luxe Exchange vs. Lyric Theatre, Atlantic City, N. J.
De Luxe Exchange vs. Ideal Theatre, Morton, Pa.
De Luxe Exchange vs. Alma Theatre, Philadelphia, Pa.

All of the cases involving claims of the exchanges against Hildinger Theatre and Hirshfield Theatres, Trenton, New Jersey were by mutual consent continued for two weeks, pending settlement.

The following cases were marked settled or withdrawn:

Universal Exchange vs. L. Berman, Savoy, Bethlehem, Pa.

F. B. O. Exchange vs. Mr. Friedman, Cameo Theatre, Allentown.

Fox Exchange vs. C. Shook, Family Theatre, Troy, Pa.

De Luxe Exchange vs. J. McTague, McTague Theatre, Coaldale.

De Luxe Exchange vs. C. Stamper, New Princess, Phila.
20th Century Ex. vs. F. Hollister, O. H., Girardville, Pa.
Penn Prod. vs. Mr. Burrows, City Theatre, Williamsport.
F. B. O. vs. M. Lessy, Diamond Theatre, Phila.

Masterpiece Ex. vs. M. Berman, Ritz Theatre, Phila.
F B. O. vs. Hippodrome, 608 South St., Phila.
F. B. O. vs. Flood's Theatre, New Phila., Pa.
E. Eggenweiler, Orpheum Theatre, E. Mauch Chunk, Pa. vs. F. B. O.
E. Eggenweiler, Orpheum Theatre, E. Mauch Chunk, Pa. vs. Columbia Pict.
Universal Exchange vs. Bellevue Theatre, Phila.

The following cases were continued to Friday, November 8, 1928: De Luxe Exchange vs. Mr. Wood, Star Theatre, Hummelstown, Pa.

Respectfully submitted.
Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 3020] Minutes of the Meeting of the Joint Board of Arbitration Held on Friday, November 9th, 1928, at 11:00 A. M., 1337 Vine Street, Philadelphia, Pa.

Mr. Lewen Pizor acted as chairman.

Case #1, Anthony Sebulesky, Lyric Theatre, Summit Hill, Pa., vs. Pathe Exchange.

Committees: Exchanges, Heenon, Applegate, Wittman; Exhibitors, Pizor, Price, Power.

Claim for damages in amount of $100.00, upon the following facts: The exhibitor had booked for his use Hold 'Em Yeale for October 22nd and 23rd. The picture did not arrive until October 23rd, too late for the exhibitor to use it, and his theatre was closed on two nights.

Defense: The Exchange produced the original box in which the film was shipped, showing that the film was delivered to the post-office at 1:00 A. M. Sunday, October 21st, and under all conditions, should have been delivered to the exhibitor by noon, October 22nd. It further appeared from the box that the film had been first carried to Williamsport, and then was carried to Summit Hill on Wednesday. Further defense was that Clause 7 of the contract, which relieves exchange from the liability when the film has been delivered to the U. S. authorities in time for mailing. That

the loss was caused by the postal authorities, and not by any act of the exchange.

Decision: That the claim be dismissed insofar as the film was delivered by the exchange to the Post-Office authorities in time for delivery to the exhibitor, and that there was no liability in accordance wtih the seventh clause of the contract.

Case #2, De Luxe Exchange vs. Star Theatre, Hummelstown, Pa.

The case was dismissed because no one appeared on behalf of the Exchange to prosecute the case.

Case #3, Universal Exchange vs. I. Zatkin, Standard, Camden, N. J.

Committees: Same as in Case #1.

Claim: Two contracts dated June 8, 1927, signed by I. Zatkin, covering 12 Gumps, 12 Newlyweds, 6 O. R. Cohens, 52 Stern Bros. Pictures unplayed 11 Gumps, 12 Newlyweds, 5 Cohens, 50 Stern Bros. Playing arrangement—One a week for Gumps, Newlyweds and Cohens, to follow an old contract. One a week for Stern Bros. to follow an old contract. The exhibitors dates for the following subjects, which he refused to lift:

10/1.	Newlyweds	$5.00
10/9.	Rushing Buster (Stern)	5.00
10/16.	Keeping in Trim (Stern)	5.00
11/5.	Circus Days	5.00
11/6.	George Steps Out	5.00
		$25.00

[fol. 3021] The claim was for the $25.00, plus completion of the contract, in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor

and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the Philadelphia Film Board of Trade members.

Case =4, Columbia Pictures vs. M. Dubrawski, Palace, Sheppton, Pa.

Committees: Exchanges, Heenon, Applegate, Wittman; Exhibitors, Pizor, Price, Goldman.

Claim: Contract dated 9 1 27, signed by M. Dubrawski for 4 pictures. All had been played. Claim for $8.87 for the rental of When Bear Cat Went Dry, plus postage, used by the exhibitor 9 24 28, for which the exhibitor has not paid.

Decision: That the exhibitor pay to the exchange within seven days from date $8.87 covering cost of picture and postage, and upon the failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $100.00 under each existing contract in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were marked settled or withdrawn:

Codumbia Pictures vs. W. Allegheny Theatre, Phila.
" " " Lehigh Theatre, "
" " " S. Wood, Star Theatre, Hummelstown, Pa.

Warner Bros vs. I. Zatkin, Standard Theatre, Camden, New Jersey.

Columbia Pictures, vs. S. J. Flood, Flood's Theatre, New Philadelphia.

Columbia Pictures vs. I. Zatkin, Standard Theatre, Camden, N. J.

The following cases were continued to Friday, Nov. 16th, by mutual consent:

De Luxe Ex. vs. S. J. Flood, Flood's Theatre, New Philadelphia.

Columbia Pictures vs. Harry Fried, Seville Theatre, Bryn Mawr, Pa.

Universal Ex. vs. Alma Theatre, Phila.

" " " Geo. B. Ten Eyck, Gaiety Theatre, Trenton.

Universal Ex. vs. Geo. B. Ten Eyck, Orpheum Theatre, Trenton.

All the Hildinger and Hirshfield cases of Trenton, N. J. and the following case was continued on the written application of the exhibitor: Columbia Pictures vs. Handle & Rovner, Westmont Theatre, Westmont, N. J.

Geo. P. Aarons, Secretary.

GPA:ASH.

[fol. 3022] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, November 16th, 1928, at 11:00 A. M., 1337 Vine St., Philadelphia, Pennsylvania.

Mr. Lewen Pizor acted as Chairman.

Case #1, Universal Film Ex. vs. G. B. Ten Eyck, Orpheum, Trenton, N. J.

Committees: Exchanges, Heenon Applegate, Zagrons; Exhibitors, Pizor, Goldman, Price.

Claim is for $1000.83. On October 29, 1928, exhibitor gave check in the amount of $1,000.00, balance due on Uncle Tom's Cabin played October 14, 1928, on contract dated Sept. 13, 1928, and check was returned marked N. S. Expenses connected with check were 83c.

Exhibitor was not present.

Decision: That the exhibitor pay to the exchange within seven days from date $1000.83, representing the amount due on the check, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its

protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $500.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Universal Film Ex. vs. G. B. Ten Eyck, Gaiety, Trenton, N. J.

Committees same as in Case #1.

Claim: Contract dated Sept. 13, 1928 covering Foreign Legion, as a second run at this theatre. Picture played first run. Exhibitor failed to lift the print October 8, 1928 for use October 8th and 9th, 1928, and instead used the first run print. Claim $50.00 for expenses, plus $1.64 parcel post charges.

Exhibitor not present.

Decision: That the exhibitor pay to the exchange within seven days from date $51.64 covering the above picture, plus parcel post charges included, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 3023] Case #3, F. B. O. vs. L. Berman, Savoy Theatre, Bethlehem, Pa.

Committees: Same as in case #1.

Claim: Contract dated June 8, 1928, for 48, 2 reel subjects. None were played. Dates set by the Exchange Sept. 25, 1928, on failure of exhibitor to give dates:

10 11-12-13 28. Horsefeathers	$30.00
10 11-12-13 28. Curiositie #1	10.00
10 18-19-20 28. Mickey's Movies	30.00
10 25-26-27 28. Racing Blood #1	30.00
10 25-26-27 28. Curiositie #2	10.00
	$110.00

Claim was for the above amount and completion of the contract.

Exhibitor was not present.

Decision: That the exhibitor pay to the exchange within seven days from date $110.00 covering the above pictures which he refused, and that he complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for their protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Columbia Pictures vs. Handle and Rovner, Westmont, Westmont, N. J.

Committees: Same as in Case #1.

Claim: Contract dated 12/29/27 for features, 12/29/27 Single Reels, for 26 pictures, of which 15 played, leaving 11 unplayed, and 26 Single Reels, 24 of which played, leaving 2 unplayed. Contract was signed by I. M. Rappaport for Handle and Rovner. Date of last feature played 9/13/28, and single reel 11/7/28. Exhibitor set in his own dates and failed to lift the shows.

7/5. Sporting Age	$20.00
7/4. Screen Snapshot	2.00
9/26. Ransom	35.00
7/6/28. Woman's Way	20.00

9 20 28. Modern Mothers $20.00
6 15 28. Wife's Relatives 20.00

making a total of $117.00.

Decision: That the exhibitor pay to the exchange within seven days from date $117.00 covering the above pictures, and that he complete the balance of the contracts in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by [fol. 3024] the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Columbia Pictures vs. H. Fried, Seville, Bryn Mawr, Pa.

Committees: Same as in Case #1.

Claim: Contract signed 8 9 27 by H. Fried for 19 pictures, 12 of which played. Last one played Oct. 10-11, 1928. Exhibitor furnished date October 11, 1928 for Matinee Idol, which he failed to lift. Rental $40.00. This was a changed title and had been screened for exhibitor before booking.

Exhibitor was not present, but the following letter was received from him:

Bryn Mawr, Pa., November 14, 1928.

"Joint Board of Arbitration, 1337 Vine St., Philadelphia, Pa.

GENTLEMEN: In answer to your letter of November 10th, regarding the decision of the case of Columbia Pictures, please be advised that we have since made a deal with them and they have agreed to substitute the four old pictures on the remaining contract for new pictures. I have instructed them to advise you regarding same.

Trusting the above is satisfactory, I remain

Very truly yours, Harry Fried."

The Board ruled letter had no reference to present case and the exhibitor be so notified, as he confirmed date 10 11 28 for Matinee Idol.

Decision: That the exhibitor pay to the exchange within seven days from date $40.00 covering the rental of Matinee Idol, and upon failure of the exhibitor to comply with the decision of the Board then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 3025] Case #6. United Artists vs. Ideal Theatre, Morton, Pa.

Committees: Same as in Case #1.

Claim: Contract dated June 15, 1928. The exhibitor, Mr. H. H. Comanor closed his house without making provisions for the unplayed portion of contract, amounting to $112.50.

Exhibitor was not present.

Decision: That the exhibitor pay to the exchange within seven days from date $112.50 covering the unplayed portion of contract.

The Board was advised that Warner Bros. had failed to comply with award rendered in favor of Mrs. Eggenweiler, Orpheum Theatre, East Mauch Chunk, Pa., against Warner Bros. on November 2, 1928.

The Secretary was instructed to write Warner Bros. local office demanding that award be immediately complied with, and Board would not hear any case of Warner Bros. against exhibitors until same had been done.

The following cases were withdrawn:

De Luxe vs. Clementon Theatre, Clementon, N. J.

De Luxe vs. Westmont Theatre, Westmont, N. J.

Columbia Pictures vs. I. Zatkin, Standard Theatre, Camden, N. J.

Fox Ex. vs. Gloria Theatre, Norristown, Pa.

Warner Bros. vs. Tioga Theatre, Phila.

20th Century vs. I. Zatkin, Standard Theatre, Camden, N. J.

De Luxe vs. Casino, New Philadelphia, S. J. Flood.

Universal vs. F. Bickhardt, Alma Theatre, Phila.

The following cases were continued to Nov. 23, 1928:

De Luxe vs. Mr. Goschov, Benn Theatre, Chester, Pa.

Warner Bros. vs. C. Stamper, 56th Street Theatre, Phila.

Masterpiece Attractions, vs. C. Stamper, Tioga Theatre, Phila.

Tiffany-Stahl vs. C. Stamper, Frankford and Roosevelt Theatres, Philadelphia, Pa.

The Hildinger and Hirshfield cases of Trenton, N. J.

Respectfully submitted.

Geo. P. Aarons, Secretary Joint Board of Arbitration.
GPA:ASH.

[fol. 3026] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, November 23rd, 1928, at 11:00 A. M., 1337 Vine Street, Philadelphia, Pennyslvania.

Mr. Lewen Pizor acted as Chairma-.

Case #1. United Artists vs. P. R. Shenk, Millerstown Theatre, Millerstown, Pa.

Committees: Exchanges, Applegate, Neufeld, McFadden; Exhibitors, Pizor, Price, Goldman.

Claim: Contract signed 12 13 27 for 7 pictures on seven individual contracts, signed by P. R. Shenk. None of the pictures have been played. Playing arrangement on all the contracts "To be played before June 30, 1928." dates were requested Feb. 10, 1928 and July 12, 1928. On May 9, 1928 the dates were set, subsequently the exhibitor changed these dates, which were acceptable to the exchange, then the exhibitor failed to lift the first three shows, dated in October by himself.

Defence: The exhibitor was not present in person, but sent a letter outlining his defence under date of November 3, 1928, and November 12, 1928, in which the exhibitor said that he had purchased new contracts, that the contract was

represented by the salesman as being new, and as a matter of fact, the contract was five years old.

The Board in arriving at its conclusion, determined that the date of June 30, 1928, meant the termination of the contract and that the pictures had to be played prior thereto, but that when the exchange had set in the dates, they set in dates, with the exception of one picture "Tailor Made Man," for dates which were after the expiration period of the contract, and accordingly the Board found:

Decision: That the exhibitor pay to the exchange within seven days from date $15.00, representing the rental value of "Tailor Made Man" booked for use of exhibitor 11 3 28, which date was set in accordance with the contract, by notice dated June 20, 1928; that the balance of the claim be dismissed, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $100.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, United Artists vs. William Hissner, Strand, Annville

[fol. 3027] Committees: Exchanges, Applegate, Neufeld, Heenon; Exhibitors, Pizor, Price, Goldman.

Claim: Number of contracts dated 1 18 28, 5 29 28, and 6 19 28 respectively, signed by William Hissner for 9 pictures, none of which played. Playing arrangement "To be played within 90 days of notice of availability." It appears that the exhibitor has closed his theatre. The rental value of the pictures amounts to $162.44, which includes the parcel post charge of $2.44 covering a picture sent under date of 10 12-13 28.

Decision: That the exhibitor pay to the exchange within seven days from date $162.44, representing the unplayed portion of the contract.

Case =3, F. B. O. vs. Albert Weiss, Elm Theatre, Philadelphia

This theatre now known as the Embassy Theatre.

Committees: Same as in Case =2.

Claim: Contract dated 9 19 27, signed by A. Weiss for 42 pictures, 23 played, 19 remain unplayed. Date of last picture played was 10 10 28. Playing arrangement "Three or four per month as available."

Exhibitor present.

Defence: That there had been in existence a prior contract covering the contract 1926-1927 and that when he signed the 1927-28 contract he had not completed the prior contract, that the prior contract provided that he was to play after the Orient and Benn Theatres, first run had not been sold. The result was that he found himself with an over-crowded condition, and even in the face of this, the exhibitor gave dates on the following shows:

10 4 28. Shanghaid	$15.00
10 18 28. Legionaire in Paris	15.00
10 31 28. Wallflowers	15.00
11 14 28. South Sea Lover	15.00

and a number of subsequent dates. These dates were given Sept. 6th, 1928, and were all confirmed by the exchange. It appeared the exhibitor has only played 23 pictures in 47 weeks on the new contract.

Decision: That the exhibitor pay to the exchange within seven days from date $60.00, representing the rental value of the four pictures, which he left lay, and that he complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia [fol. 3028] Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the

arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, Universal Ex. vs. Heim Jacobs, Lyric Theatre, Atlantic City.

Committees: Exchanges, McFadden, Neufeld, Heenon; Exhibitors, Pizor, Price, Goldman.

Claim: Contract signed 6/27/27 covering a number of pictures, but the only ones in question were 5 Aviation and 5 Dog Pictures. The exhibitor played 3 Aviation and 2 Dog Pictures and there remains unplayed 2 Aviation and 3 Dog Pictures. Last Aviation played June 7, 1928, last Dog Picture played August 6, 1928. Dates were requested and exhibitor set in the following dates, which were subsequently changed by agreement to 10/24/28——

Call of Heart, $20.00, 10/31/28 Air Patrol $20.00.
Exhibitor refused the pictures in question.

Exhibitor was not present.

Decision: That the exhibitor pay to the exchange within seven days from date $40.00, representing rental value of two pictures in question, which he refused, and complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributors of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $100.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Universal Ex. vs. Geo. B. Ten Eyck, Orpheum, Trenton, N. J.

Committees: Same as in Case #4.

Claim: Date of contract October 25, 1926, signed by Geo. B. Ten Eyck, President, Orpheum Theatre Company, cover-

ing 12 pictures. Three pictures remain unplayed. Playing arrangement—"To be played every four weeks on a schedule." Dates were requested numerous times, and under date of 4/16/28, exhibitor set in the dates on the pictures, which subsequently were changed, redated and confirmed, and which the exhibitor failed to lift.

Exhibitor not present.

Claim involved $106.99, made up as follows:

7/ 3/27	Look Out Buster	$35.00
[fol. 3029]		
5/13/28	Buster's Frame Up	35.00
	Parcel Post	1.14
6/17/28	Buster's Handicap	35.00
	Parcel Post	.85
		$106.99

Decision: That the exhibitor pay to the exchange within seven days from date $106.99 covering the above pictures, with parcel post charges, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection, and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, Pathe Ex. vs. L. Berman, Savoy Theatre, Bethlehem, Pa.

Committees: Same as in Case #5.

Claim: Contract dated 7/9/28 covering King of Kings, a percentage contract, which picture was played by the exhibitor during the week of October 1, 1928. There was due the exchange $1187.18 covering overage. Exhibitor sent a check dated Oct. 12, 1928 in this amount, which check was returned marked N. S. F.

Exhibitor not present.

Decision: That the exhibitor pay to the exchange within seven days from date $1187.18 covering the above N. G. check, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or ony other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Phila. Film Board of Trade, a sum not to exceed $500.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #7, Pathe Ex. vs. L. Berman, Savoy Theatre, Bethlehem, Pa.

Committees: Same as in Case #6.

Claim: Contract dated 7/18/27 and 3/5/28 respectively, covering 166 pictures, including features, News and Fables. Exhibitor had supplied the date, which date was confirmed for the following and which pictures the exhibitor refused to lift:

[fol. 3030] Craig's Wives 11/15-16-17/28	$400.00
Laundry Man (Fable) same dates	10.00
Pathe News #94 same dates	25.00
Total	$435.00

Decision: That the exhibitor pay to the exchange within seven days from date $435.00 covering the above pictures, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts, a sum not to exceed $500.00 under each existing contract, in pursuance to the arbitration clause

contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were settled or withdrawn:
Universal vs. Victoria, Mays Landing, N. J.
Rialto Theatre, Lewiston, Pa., vs. Paramount.
Hirshfield cases, Trenton, N. J. settled.
20th Century Ex. vs. Mt. Joy Theatre, Mt. Joy, Pa.
F B O vs. Park Theatre, Lehington, Pa.
Tiffany-Stahl vs. Rivoli Theatre, Phila,
F B O vs. 56th Street Theatre, Phila.
F B O vs. Cayuga Theatre, Phila.
Warner Bros. vs. 56th Street Theatre, Phila.
Masterpiece Attractions vs. Tioga Theatre, Phila.

The following cases were postponed until Friday, Nov. 30, 1928.
Universal vs. A. J. DeFiore, Broadway Theatre, Wilmington, Del.
U F A vs. Bellevue Theatre, Phila.
Masterpiece Attractions vs. Jos. Rose, Rose Theatre, Phila.
DeLuxe Ex. vs. J. Goschov, Benn Theatre, Chester, Pa.
Hildinger cases of Trenton, N. Jersey.
Tiffany Stahl vs. Frankford and Roosevelt Theatres, Phila., postponed indefinitely.
Respectfully submitted.
Geo. P. Aarons, Secreary Joint Board of Arbitration.

GPA:ASH.

[fol. 3031] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, November 30, 1928, at 11.00 A. M., 1337 Vine Street, Philadelphia.

Mr. Lewen Pizor acted as Chairman.

Case #1, Paramount Ex. vs. H. Axler, Bellevue Theatre, Phila.

Committees: Exchanges, Neufeld, Applegate, Seval; Exhibitors, Price, Perlin, Pizor.
Claim: Contract dated October 16, 1928, signed by H. Axler, on which appeared the picture, among others, Legion

of the Condemned. This picture was played by the exhibitor on 10/29/28, rental value of which was $35.00. The exhibitor gave a check in this amount, which check was returned marked N. S. F.

Decision: That the exhibitor pay to the exchange within seven days from date $35.00, the amount of the N. G. check issued by him, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Masterpiece Ex. vs. E. Israel, New Ritz Theatre, 40th and Poplar Streets, Phila.

Committees: Exchanges, Neufeld, Applegate, Heenon; Exhibitors, Price, Perlin, Pizor.

Exhibitor was present.

Claim: Contracts dated 3/27/28, signed by E. Israel for 49 pictures, 9 played and 40 remain unplayed. Last picture was played July 21, 1928. Dates were requested and on Oct. 18, 1928, exchange set in dates and the exhibitor failed to lift the following pictures on the set dates:

11/2. Speed Crazed	$12.00
11/6. Gallant Fool	12.00
11/23. Unknown Dangers	12.00

Claim is for $36.00, plus faithful performance of the balance of the contract.

The exhibitor offered no real defense to the action.

Decision: That the exhibitor pay to the exchange within [fol. 3032] seven days from date $36.00, and that he complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor

or any other distributor of the Philadelphia Film Board of Trade with whom the exhibitor has any contracts may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Penn Productions vs. E. Israel, New Ritz Theatre, 40th and Poplar Streets, Phila.

Committees: Same as in Case #2.

Exhibitor was present.

Claim: Contracts signed December 15, 1927, and April 6, 1928, covering 36 pictures, 17 remain unplayed. Playing arrangement "One subject per week after opening date." Dates were requested and finally set in on October 18th, 1928, the exchange setting in the dates for the following pictures, which pictures were not lifted by the exhibitor.

The exhibitor offered no real defence.

11/1. Phantom of the Turf	$20.00
11/8. Light in the Window	20.00
11/15. You Can't Beat the Law	20.00
11/22-23. Wheel of Destiny	40.00
11/29. Million Dollar Mystery	20.00

Claim is for $120.00 representing the rental value of the pictures which the exhibitor failed to lift, and completion of the contract in accordance with the terms of the contract.

Decision: That the exhibitor pay to the exchange within seven days from date $120.00 representing the value of the above pictures, and that he complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing

contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 3033] Case #4, De Luxe Ex. vs. Jacob Gorchov, Benn Theatre, Chester, Pa.

Committees: Exchanges, Wittman, Applegate, Heenon; Exhibitors, Price, Perlin, Pizor.

Claim: Contract dated July 5, 1927, first picture played January 18, 1928. Exchange had asked for numerous dates and finally exchange was compelled to set in the following dates:

10/13/28. Turn Back the Hours	$15.00
10/29/28. Million for Love	15.00
11/5/28. Undressed	15.00
11/19/28. Marry the Girl	15.00

Claim is for $60.00, the value of the pictures refused by the exhibitor and completion of the balance of the contract.

Decision: That the exhibitor pay to the exchange within seven days from date $60.00 covering the rental value of the pictures refused by him and that he complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, [fol. 3034] in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, U. F. A. Exchange vs. H. Axler, Bellevue Theatre, Phila.

Committees: Exchanges, Applegate, Heenon; Exhibitors, H. R. Lewis, Pizor.

Claim: Contract dated August 17, 1928, signed by H. Axler. It appeared the exhibitor played the picture Tartufee The Hypocrite on Sept. 17-18, 1928, and refused to pay for the same, rental value of which was $75.00.

Exhibitor was not present.

Decision: That the exhibitor pay to the exchange within seven days from date $75.00 the rental value of the picture which he played, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 [fol. 3034] under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, 20th Century Ex. vs. H. Axler, Bellevue Theatre, Phila.

Committees: Same as in Case #5.

Claim: Contract dated January 24, 1927, and on which contract was the picture, among others, The Cruel Truth. The exhibitor played this picture on September 26th, and did not pay for the same, rental value of which was $25.00.

Decision: That the exhibitor pay to the exchange within seven days from date $25.00, covering the rental value of the above picture, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $100.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #7, Universal Ex. vs. A. J. DeFiore, Broadway, Wilmington.

Committees: Exchanges, Neufeld, Applegate, Meenon; Exhibitors, Pizor, H. R. Lewis, Price.

Claim: Contracts dated 6/4/26, signed by A. J. DeFiore covering 52 Stern Bros. Comedies. There remains unplayed 23. The first picture played January 21, 1927, and the last picture played 10/11/28, and the exhibitor refused to lift the pictures on the dates set as follows:

October	14, Oh Taxi	$5.00
	15, Jane's Relation	5.00
	17, On Furlough	5.00
	22, Snookum Cleans Up	5.00
	29, Plain Jane	5.00
	31, Please Don't	5.00
November	5, Rushing Business	5.00
	7, Keeping in Trim	5.00
	12, Dancing Fools	5.00
	14, George Steps Out	5.00
	19, Society Breaks	5.00
	21, All for Uncle	5.00
	26, Picking on George	5.00
	28, Passing the Joneses	5.00
	Total	$70.00

[fol. 3035] It appeared that the exhibitor under date of August 13, 1928, wrote to the exchange, obligating himself to go through with the said contract.

The claim is for $70.00, rental value of the pictures unlifted and completion of the balance of the contract.

Exhibitor not present.

Decision: That the exhibitor pay to the exchange within seven days from date $70.00 representing the rental value of the pictures not lifted, and that he complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one

of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts, between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were withdrawn or settled:

Vitagraph, Inc. vs. Savoy Theatre, Bethlehem, Pa.

Columbia Pictures vs. Germantown Theatre, Phila.

Tiffany-Stahl vs. Wynne Theatre, Phila.

The following cases were continued until Friday, Dec. 7th, 1928:

Fox Ex. vs. L. Berman, Savor Theatre, Bethlehem, Pa.

Masterpiece Attractions vs. C. Rosenfeld, Littleton Theatre, Phila.

Tiffany-Stahl vs. Princess Theatre, Phila.

Tiffany-Stahl vs. Tioga Theatre, Phila.

Masterpiece Attractions vs. J. Rose, Rose Theatre, Phila.

Hildinger cases of Trenton, N. J.

The following cases were postponed until December 14th, 1928: Fox Exchange vs. H. M. Meeker, Hamilton, Allentown, Pa.

Respectfully submitted.

Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 3036] Minutes of the meeting of the joint Board of Arbitration held Friday, December 7, 1928, at 11.00 A. M., 1337 Vine Street, Philadelphia, Pa.

Mr. C. Zagrons acted as Chairman.

Case #1, Masterpiece Film Attractions vs. C. Rosenfeld, Littleton Theatre, Phila.

Committees: Exchanges, Block, Wittman, Zagrons; Exhibitors, Goldman, Perlin, Power.

Claim: Contract dated 11/8/26, signed by D. H. Kates, and assumed by C. Rosenfeld, covering 51 pictures, 20 of which remain unplayed. The last picture was played

5/31/28. There was no playing arrangement. Dates were requested repeatedly and on October 18, 1928, the exchange set in the following dates:

Pay Off, 11/8, Refused	$10.00
Accused, 11/8, Refused	10.00
Burning Gold, 11/15, Refused	10.00
Duty's Reward, 11/22, Refused	10.00
Defend Yourself, 11/29, Refused	10.00
Fire & Steel, 12/7, Refused	10.00
	$60.00

The first picture was played August 27, 1927.

The theatre is now closed.

Decision: That the exhibitor pay to the exchange within seven days from date $60.00, representing the rental value of the films which the exhibitor failed to lift, and that the exhibitor complete the contract in accordance with the terms of the contract.

Case #2, Columbia Pictures vs. H. T. Nayor, Opera House, Columbia.

Committees: Same as in Case #1.

Claim: Contract dated 8/26/26, signed by D. C. Neagley, and assumed by the present owner for 24 pictures, one of which remains unplayed. Date of last picture played was 3/3/28. The picture in question is Swell Head, rental value $35.00, which exhibitor had dated in for use October 12, 1928, and exhibitor failed to lift the picture.

Decision: That the exhibitor pay to the exchange within seven days from date $35.00 covering the picture Swell Head, which he refused to lift, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not

to exceed $100.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 3037] Case #3, F. B. O. vs. Handle and Rovner, Clementon Theatre, Clementon, N. J.

Mr. Lewen Pizor acting as Chairman.

Committees: Exchanges, Block, Wittman, Zagrons; Exhibitors, Pizor, Perlin, Power.

Claim: Contract dated March 12, 1928. Exhibitor dated in the picture Devil's Trademark, to be used October 20, 1928, rental $10.00, and exhibitor failed to lift the picture on the said date.

Decision: That the exhibitor pay to the exchange within seven days from date $10.00 covering the rental of the picture Devil's Trademark, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $100.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, F. O. B. vs. N. R. Hill and V. C. Luppert, Operating the Grand Theatre, Williamsport, Pa.

Committees: Same as in Case #3.

Claim: Contract dated 2 22 28, signed by V. C. Luppert and N. R. Hill, for 30 pictures, 13 of which were played and 17 remain unplayed. Last picture was played 11 21-22 28. Playing arrangement "One or more per week, starting the second week of March 1928. The exchange had repeatedly requested play dates, and under date of 10 27 28, set in the following pictures on the dates, which pictures the exhibitor failed to lift:

Clancy's Kosher Wedding	11/12-13/28	$30.00
The Harvester	11/19-20/28	30.00
Leigon-aires in Paris	11/26-27/28	30.00
Freckles	12/ 3- 4/28	30.00
		$120.00

Decision: That the exhibitor pay to the exchange within seven days from date $120.00 covering the above pictures, and that they complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

[fol. 3038] Case #5, F. B. O. vs. A. Cebulesky, Lyric Theatre, Summit Hill, Pa.

Committees same as in Case #4.

Claim: Contract dated June 30, 1927. Playing arrangement "One or more per week." Exhibitor set in the following dates, which he refused to lift:

Silk Sock Hal	10/26/28	$ 5.00
Law of Fear	10/26/28	10.00
Wizard of the Saddle	10/19/28	10.00
Fangs of the Wild	11/ 2/28	10.00
		$35.00

Decision: That the exhibitor pay to the exchange within seven days from date $35.00, representing the value of the pictures which he failed to lift, and that he complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with

the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $100.00, under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, Columbia Pictures vs. E. Israel, New Ritz Theatre, 40th and Poplar Streets, Philadelphia.

Committees: Exchanges, Block, Zagrons, Blofson, Exhibitors, Power, Goldman, Perin.

Mr. Zagrons acting as Chairman.

Claim: Contract dated 5/8/28, signed by E. Israel for 15 pictures, 9 of which remain unplayed. The last picture was played 10/3/28. Playing arrangement "As available." Many dates were requested, and under date of October 27, 1928, the exchange set in the following pictures, which were not lifted by the exhibitor, to the amount of $92.50:

So This Is Love	11/12	$22.50
Woman's Way	11/19	22.50
Matinee Idol	11/26	22.50
Desert Bride	12/ 3	25.00

Claim is for $92.50 and completion of the contract, as per dates scheduled.

Decision: That the exhibitor pay to the exchange within seven days from date $92.50 within seven days, representing the rental value of the films not lifted, and that he complete the contract as per dates scheduled, and upon failure [fol. 3039] of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of

Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #7, Masterpiece Attractions vs. J. Rose, Rose Theatre, Phila.

Committees: Exchanges, Wittman, Zagrons and Blofson; Exhibitors, Power, Goldman, Perlin.

Claim: Contract signed 1/27/28 by D. S. Moliver, who was the manager of the theatre, covering 24 pictures, 15 of which remain unplayed, Last picture was played 6/21/28. Dates were requested on numerous occasions, and on October 11, 1928, the following pictures were set in on the following dates, which were not lifted by the exhibitor, to the amount of $105.00:

Defend Yourself	10/25	Refused	$15.00
Roaring Fires	11/ 1	"	15.00
Hearts of Men	11/ 8	"	15.00
Thunder God	11/15	"	15.00
Dugan of the Dugout	11/22	"	15.00
Riley Rainbow Division	11/29	"	15.00
What Price Love	12/ 6	"	15.00

Claim is for $105.00, and for the faithful performance of the balance of the contract.

Decision: That the exhibitor pay to the exchange within seven days from date $105.00 covering the pictures above, which he refused, and to complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts, as held by the members of the Philadelphia Film Board of Trade.

Case #8, Tiffany-Stahl vs. J. Gorchov, Benn Theatre, Chester, Pa.

Committees: Exchanges, Givens, Wittman, Lucchese; Exhibitors, Pizor, Goldman, Perlin.

Mr. Pizor acting as Chairman.

Claim: Contract dated May 26, 1927, which was subsequently assumed by the present owner of the theatre, J. [fol. 3040] Gorchov, covering 20 pictures, 15 of which remain unplayed. Playing arrangement "After September 15, 1927, two a month. To be completed November 1928."

Exhibitor failed to lift the following pictures on the following dates:

The Devil's Skipper	11/ 9/28	$12.50
Stormy Waters	11/16/28	12.50
Prowlers of the Sea	11/23/28	12.50
Haunted Ship	11/30/28	12.50

Claim is for $50.00 and that the exhibitor be required to complete the balance of the contract.

Decision: That the claim be allowed as presented, and that the exhibitor pay to the exchange within seven days from date $50.00 covering the above pictures, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #9, Fox Exchange vs. J. Gorchov, Benn Theatre, Chester, Pa.

Committees same as in Case #8.

Claim: Contract dated May 31, 1927, covering a number of features, comedies, varieties and News Reels, of which there remain 26 features, 2 comedies, 6 varieties, 42 News

Reels unplayed. The exhibitor set in a number of dates on pictures, which he failed to lift, the rental value of which amounted to $94.50. The exhibitor had played a number of pictures for which he did not pay, amounting to $22.00. The claim presented by the exchange was for $116.50 and that the exhibitor complete the balance of the contract in accordance with the terms of the contract.

Decision: That the claim be allowed in the amount of $116.50, which must be paid by the exhibitor within seven days from the date hereof and that he complete the balance of the contract in accordance with the terms thereof, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contract- between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #10, Paramount Pictures vs. J. Gorchov, Benn Theatre, Chester, Pa.

[fol. 3041] Committees: Same as in Case #9.

Claim: Contracts dated 9/7/27 and 8/29/28 covering 9 features and News Reels, of which there remain unplayed 3 features and the balance of the News Reels.

The exhibitor set in the dates, on which dates he refused to lift the following pictures, in the amount of $66.50:

10/11.	News #20	$2.00
10/13.	" #19	2.00
10/18.	" #22	2.00
10/20.	" #21	2.00
10/25.	" #24	2.00
10/27.	" #23	2.00
10/31.	Sporting Goods	12.50
11/ 1.	Kit Carson	17.50

11/ 1.	News #26	2.00
11/ 3.	" #25	2.00
11/ 8.	" #28	2.00
11/10.	" #27	2.00
11/10.	Mating Call	12.50
11/15.	News #30	2.00
11/17.	" #29	2.00

Claim is for $66.50, and to complete the balance of the contract in accordance with the terms of the contract.

Decision: That the exhibitor pay to the distributor within seven days from date $66.50 covering the above pictures and News Reels, within seven days from date, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150. under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #11, Universal Ex. vs. Victor Austin, Grand, E. Stroudsburg, Pa.

Committees: Exchanges, Givens, Block, Lucchese; Exhibitors, Pizor, Goldman, Perlin.

Claim: Contract dated 10/12/27, signed by Victor Austin for 6 pictures, 5 remain unplayed. Numerous dates were requested, and on 9/7/28, the exchange set the date of 9/25/28 for the picture Fast and Furious $30.00, which picture the exhibitor failed to lift on the said date. The claim is for $31.38, which is made up as follows—$30.00 for picture and $1.38 for P. P. charges.

Decision: That the exhibitor pay to the exchange within seven days from date $31.38, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any con-

tracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the mem- [fol. 3042] bers of the Philadelphia Film Board of Trade.

Case #12, Universal Film Ex. vs. S. Shapiro, Felton Theatre, Phila.

Committees same as in Case #11.

Claim: Contract dated 6/21/26, signed by S. Shapiro, covering 21 features, one picture remains unplayed. Playing arrangement: "To be played at the rate of three a month, if available." The last picture was played 9/14/28. Numerous dates were requested covering a period from January, 1928, to June 11, 1928, when the exchange set in the picture Her Big Night for use July 13-14/1928, the rental value of which is $65.00, which the exhibitor failed to lift.

Decision: That the exhibitor pay to the exchange within seven days from date $65.00 covering the picture Her Big Night, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #13, Vitagraph, Inc. vs. Frank Hollister, O. H., Girardville, Pa.

Committees: Exchanges, Wittman, Block, Lucchese; Exhibitors, Pizor, Goldman, Perlin.

Claim: Contracts dated 6 2 26 and 12 20 27, signed by F. Hollister, for 52 pictures, 21 of which remain unplayed, and in the 21, one remains unplayed on the 1926 contract. Playing arrangement: "One every other week." Numerous dates were requested, and on 11 5 28, the following pictures were set in and refused by the exhibitor:

Dearie, the one remaining picture on the contract of 6 2 26, for use 11 19 28, amount of	$15.00
Beware of Married Men, 11 26 28	15.00
Dog of the Regiment, Dec. 3, 1928	15.00
	$45.00

The claim was for the amount of $45.00, plus rental value of Reno Divorce $15.00, played by the exhibitor May 11, 1928, and not paid for, with postage added thereon of $3.28, and for completion of the contract, in accordance with the terms of the contract.

Decision: That the claim of the exchange be allowed and that the exhibitor pay $63.28 within seven days from the date hereof, and complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the [fol. 3043] Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were marked settled or withdrawn:

Columbia Pictures vs. Germantown Theatre, Phila., Pa.
" " " Mt. Joy Theatre, Mt. Joy, Pa.
F. B. O. vs. New Mildred Theatre, Mildred, Pa.
Tiffany-Stahl vs. Elaine Theatre, New Castle, Del.

Universal vs. Globe and Spielmont Theatres, Marcus Hook, Pa.
Universal vs. Bellevue Theatre, Phila.
Fox Exchange vs. Savoy Theatre, Bethlehem, Pa.
Tiffany vs. Princess and Tioga Theatres, Phila., Pa.
F. B. O. vs. Standard Theatre, Camden, N. J.
F. B. O. vs. 56th Street Theatre, Philadelphia, Pa.
Respectfully submitted.

Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 3044] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, December 14, 1928, at 11:00 A. M., 1337 Vine St., Philadelphia, Pa.

Case #1, Masterpiece Ex. vs. F. Romano, Keystone, Weatherly, Pa.

Committees: Exchanges, Wittman, McFadden, Donohue, Chrmn. Pizor; Exhibitors, Pizor, Price, Goldman.

Claim: Date of two contracts 7 12 27, being Contract #1, and 6 6 28, being contract #2, both signed by Frank Romano. Number of pictures on Contract #1 is 8, and 17 pictures on Contract #2. The first picture was played on contract #1 July 30, 1927, and the first picture was played on Contract #2, October 27, 1928. The exhibitor played 4 pictures on the first contract and four remain unplayed, and 12 pictures remain unplayed on contract #2. Date of the last picture played 11 12 28. Playing arrangement, as per letter of Sept. 14, 1928, signed by exhibitor. "A complete show every Monday until the contract is completed."

Exhibitor failed to date in pictures, and exchange set in dates on the following pictures, which were refused by the exhibitor and the claim is as follows:

Smiling Billy, including short subjects for 11 19 28	$12.50
Finnegan's Ball, including short for 12 10 28	10.00

Claim being for $22.50, representing the rental value of the two pictures left unplayed, and for the faithful performance of the contract, in accordance with the terms of the contract.

Decision: That the exhibitor pay to the exchange within seven days from date $22.50 covering the rental value of the above pictures, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Flim Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor members of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, First National vs. E. F. Goldhahn, Elaine Theatre, New Castle, Delaware

Committees: Exchanges, Wittman, McFadden, Mochrie; Exhibitor, Pizor, Price, Goldman.

Claim: Contract signed Sept. 5, 1928, by E. F. Goldhahn for 19 pictures, 11 of them remain unplayed. "Date of last picture played October 29-30, 1928. Playing arrangement "One each week beginning October 1, 1928." The claim was based on the rental value of Chinatown Charlie refused by exhibitor on Nov. 24,1928, in the amount of $10.00, and for two checks returned by the bank marked [fol. 3045] N. S., one check dated 10 25 28 for $12.50 covering production Oh Kay, and one check for $16.20, dated 10 29 28 for The Noose, the pictures having been played by the exhibitor, the claim amounting to $38.70 and for completion of the contract, in accordance with the terms of the contract.

Decision: That the exhibitor pay to the exchange within seven days from date $38.70 covering the above pictures, and that he complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the

performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, Liberty Ex. vs. Eli Resnick, Grant Theatre, Phila., Pa.

Committees: Same as in Case #2.

Claim: Contract dated 10 30 28 covering the picture No Babies Wanted, which was played by the exhibitor, and the exhibitor gave a check in amount of $48.00, dated November 17, 1928. This check was returned marked N. S. F. by the bank, and since that time the exhibitor has paid on account of the said check $35.00. The claim is for $48.00, less the amount paid on account of the check.

Decision: That the claim of $48.00 be allowed, giving to the exhibitor credit for the $35.00 paid on account thereof, leaving a balance still due of $13.00, which amount must be paid within seven days from the date hereof.

Case #4, Columbia Pictures vs. Geo. W. Osman, Moose, Tremont.

Committees: Same as in Case #2.

Claim: Contract dated February 15, 1928, signed by Geo. W. Osman, for 7 pictures, 6 remaining unplayed. Last picture played 5 10 28. Numerous dates were requested by the exchange and on 7 19 28, the exchange set in the following dates, which pictures were refused, the rental value amounting to $65.00:

Blood Ship, 8 4	$15.00
Sally in Our Alley, 8 11	10.00
By Whose Hand, 8 18	10.00
The Warning, 8 25	10.00
The Tigress, 9 1	10.00
The Wife's Rel., 10 1	10.00

Decision: That the exhibitor pay to the exchange within seven days from date $65.00 covering the above pictures,

[fol. 3046] and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, F. B. O. vs. Gorchov, Benn Theatre, Chester, Pa.

Committees: Exchanges, Zagrons, Mochrie, Wittman. Exhibitors, Price, Pizor, Goldman.

Claim: Contract dated 5 27 27, assumed by proper assignment, covering 56 pictures, features and short subjects. 28 pictures remain unplayed. Date of last picture played was May 17, 1928. Playing arrangement "One a week of features and shorts, starting Sept. 15, 1927. Exhibitor set in the following dates for the following subjects, which he refused to lift, and the claim is for the rental value of the said subjects, amounting to $144.50 and completion of the balance of the contract in accordance with the terms of the contract:

11/14. The Coward	$15.00
11/22. Shanghaied	15.00
11/28. Flying U Ranch	12.50
12/4. Dead Man's Curve	15.00
12/7. Breed of Courage	12.50
12/11. Coney Island	15.00
12/13. Wizard of Saddle	12.50
6 Single Reels at $2.00 ea	12.00
11/7. Mickey's Nine	5.00
11/9. All Washed Up	5.00
11/15. All Alike	5.00
11/19. Mickey's Litt. Ev.	5.00
11/26. Rah Rah Rexie	5.00
12/3. Big Berthas	5.00
12/10. Mickey's Wi. Wst.	5.00

Decision: That the exhibitor pay to the exchange within seven days from date $144.50 covering the above pictures, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were marked settled or withdrawn:

Fox Film Corp. vs. Temple Theatre, Ashland, Pa.
20th Century Film Co. vs. Elm Theatre, Phila., Pa.
Masterpiece Ex. vs. O. H. Columbia, Pa.
Pathe vs. Tioga Theatre, Phila.
Pathe vs. Westmont Theatre, Westmont, N. J.
[fol. 3047] 20th Century Ex. vs. Flood's Theatre, New Phila., Pa.
First National vs. Egyptian Theatre, Bala, Pa.
Fox Ex. vs. Palace Theatre, Pen Argyle, Pa.
Hildinger Cases of Trenton, N. J.
F. B. O. vs. Hamilton Theatre, Allentown, Pa.

The following cases were postponed as follows:

Tiffany-Stahl vs. Tioga and Frankford Theatres, 12/21/28.

20th Century vs. St. Francis Church, Minersville, Pa., Phila., 12/21/28.

20th Century vs. E. Israel, Ritz, 40th & Poplar Sts., 12/21/28.

Paramount vs. J. G. Meyer, Capitol Theatre, Montoursville, 12/21/28.

Universal vs. A. Frank, Victoria Theatre, Mays Landing, N. J.

Vitagraph vs. J. G. Higgins, Majestic Theatre, Gettysburg, Pa.

Vitagraph vs. J. G. Higgins, Majestic Theatre, Tamaqua, Pa.

Postponed indefinitely, pending settlement.

Fox Ex. vs. H. M. Meeker, Hamilton Theatre, Allentown, Pa., 1/4/29.

Respectfully submitted.

Geo. P. Aarons, Secretary,
Joint Board of Arbitration.

GPA: ASH.

[fol. 3048] Minutes of the Meeting of the Joint Board of Arbitration Held Friday, December 21, 1928, at 11.00 A. M., 1337 Vine St., Phila.

Mr. Pizor acted as Chairman.

Case #1, Liberty Film Ex. vs. Penn Theatres Corp., Operating 19th Street Theatre, Allentown, Pa.

Committees: Exchanges, McFadden, Zagrons, Blofson; Exhibitors, Pizor, Goldman, Price.

Claim: Contract dated 3/28/28, covering No Babies Wanted, rental $100.00. The exhibitor refused to play the picture in accordance with dates set in on 11/23/28.

Decision: That the exhibitor pay to the Exchange within seven days from date $100.00 covering the cost of the picture, and upon refusal of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, 20th Century Ex. vs. Rev. J. A. Karalius, St. Francis Church, Minersville, Penna.

Committees: Same as in Case #1.

Claim: Contracts dated March 15, 1928, signed by the Rev. J. A. Karalius, for 4 pictures, none of which were played. Numerous dates were requested and on October 30, 1928, the picture Snarl of Hate was set in for play 11/18/28, rental value $10.00. The picture was refused by the exhibitor. Added thereon are postal charges of $1.26, making a total of $11.26. Claim is for $11.26, plus completion of the contract in accordance with the terms of the contract.

Decision: That the exhibitor pay to the exchange within seven days from date $11.26, covering rental value of picture and parcel post charges, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $350.00 under each existing contract, in pursuance with the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #3, 20th Century Ex. vs. Geo. Osman, Moose Theatre, Tremont, Pa.

Committees: Same as in Case #2.

[fol. 3049] Claim. Contract dated April 13, 1927 and 6/7/27, covering a number of features and short subjects. There remain unplayed 2 pictures, one on each contract. Last picture played 6/1/28. Dates were requested repeatedly and on November 9, 1928, the picture Back to Liberty was set in to be played by the exhibitor November 26, 1928, rental value $10.00, which picture was not lifted by the exhibitor, with parcel post charges in addition of $1.35, and the picture Where Trail Begins for use December 3, 1928, rental value $12.50. The claim is for $23.85, representing the rental value of the pictures refused, and for completion of the contract, in accordance with the terms of the contract.

Decision: That the exhibitor pay to the exchange within seven days from date $23.85, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #4, 20th Century Ex. vs. E. Israel, Ritz Theatre, 40th & Poplar Streets, Philadelphia

Committees same as in Case #3.

Claim: Contracts dated Dec. 19, 1927, covering a number of features, two reel subjects and single reel subjects, upon which contracts there remain unplayed 29 feature, five 2 reel subjects and nine one reel subjects. Playing arrangement "One a week". Numerous requests were made for dates, and finally exchange, under date of November 6, 1928, was compelled to set in the following pictures for the total rental of $86.50, which exhibitor failed to lift:

U. P. Trail, 11/24/28	$12.00
Woman Law, 11/28/28	12.50
Spirit Lake Massacre, 12/7	12.00
Stronger Will, 12/14	15.00
Sherlocks Rivals, 11/21	5.00
That Night, 11/28	5.00
Down Sea in Cabs, 12/5	5.00
Three Faces West, 12/12	5.00
When We Were Kids, 11/22	2.00
Silence of the Snow, 11/29	2.00
When the Red Skins, 12/6	2.00
Old Protector Talks, 12/13	2.00
Stepping on the Gas, 12/19	5.00
Early in the Morning, 12/20	2.00

The claim was for $86.50, the rental value of the pictures refused by the exhibitor, and for the completion of

the contract in accordance with the terms of the contract.

Decision: That the exhibitor pay to the exchange within seven days from date $36.50 covering the pictures refused, and upon failure of the exhibitor to comply with the decision of the Board by paying the amount of $86.50 within seven days, and to complete the contract in accordance with the terms of the contract, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with [fol. 3050] whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Universal Ex. vs. A. Frank, Victoria Theatre, Mays Landing, New Jersey

Committee: Same as in Case #4.

Claim: Contract dated 2/6/28, which contract was subsequently assigned to F. Seidman, which assignment, however, did not relieve A. Frank of liability for the contracts. The contract covered 56 weeks' of complete service. There remain unplayed 33 pictures. Playing arrangement "One, however, a week." Weekly payments for entire service. Exhibitor failed to carry out the terms of the contract, and refused to lift the following pictures:

10/ 8.	Complete	service	week	ending		10/13	$15.00
10/22.	"	"	"	"		10/27	15.00
10/29.	"	"	"	"		11/ 3	15.00
11/ 5.	"	"	"	"		11/10	15.00
11/12.	"	"	"	"		11/17	15.00
11/19.	"	"	"	"		11/24	15.00
11/26.	"	"	"	"		12/ 1	15.00
12/ 3.	"	"	"	"		12/ 8	15.00
12/10.	"	"	"	"		12/15	15.00
12/17.	"	"	"	"		12/22	15.00

The claim was for the amount of $150.00, representing the complete service refused by the exhibitor and for completion of he contract in accordance with the terms of the contract.

Decision: That the exhibitor pay to the exchange within seven days from date $150.00 covering the cost of the complete service refused, and that he complete the contract in accordance with the terms thereof.

Case #6, F. B. O. vs. J. Howard Gaskill, O. H. Barnegat, N. J.

Committees: Exchanges, Donohue, Zagrons, Blofson; Exhibitors, Pizor, Goldman, Price.

Claim: Contract date 8/15/28 for 60 pictures, 56 of which remain unplayed. Playing arrangement "One feature and comedy each Thursday, starting 11/1/28". The exhibitor dated in the following pictures, which he neglected to lift. The claim was for $68.84, representing the rental value of the pictures refused by the exhibitor, plus parcel post charges, and completion of the contract:

11/8, Danger Street	$10.00
11/22, Stocks and Blondes	7.50
11/29, Capt. Careless	7.50
12/6, Perfect Crime	12.50
12/20, Charge of Gauchos	7.50

		P. P.
Horsefeathers	$3.00	$1.72
Family Meal Ticket	3.00	1.80
Racing Blood #4	3.00	1.72
Mickey's Movies	3.00	1.80
Olmnx	3.00	1.80

[fol. 3051] Decision: That the exhibitor pay to the exchange within seven days from date $68.84 covering the rental value of the pictures refused, and that he complete the balance of the contract in accordance with the terms of the contract, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the op-

tion of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts, a sum not to exceed $2 .0.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #7, Fox Ex. vs. J. G. Meyer, Capitol Theatre, Montoursville, Pa.

Committees: Exchanges, Donohue, McFadden, Blofson; Exhibitors, Pizor, Goldman, Price.

Claim: Contract dated 10 22 27, signed by J. G. Meyer, covered 53 features, 21 of which are unplayed. Playing arrangement "Four per month". The exhibitor set in dates on the following subjects:

Love Hungry, Nov. 8 28	$10.00
News Parade, Nov. 22 28	10.00

which the exhibitor refused to lift. Claim is for $20.00 the rental value of the pictures refused by the exhibitor, plus $2.88 parcel post charges.

Decision: That the exhibitor pay to the exchange within seven days from date $22.88 covering the rental value of the pictures refused, plus parcel post charges, and that he complete the balance of the contract in accordance with the terms of the contrat, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board o. Trade, with whom exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were settled or withdrawn:

Tiffany-Stahl vs. Equity Theatres, covering Northeastern and Liberty Theatres.

F. B. O. vs. Keystone Theatre, Williamsport, Pa.

[fol. 3052] Paramount Exchange vs. Capitol Theatre, Montoursville, Pa.

Vitagraph vs. Majestic Theatre, Gettysburg, Pa.

Fox Exchange vs. Strand Theatre, 12th and Girard Ave., Phila.

The following cases were continued to 12/28/28:

Fox Exchange vs. Jos. Rose, Rose Theatre, Phila.

Liberty Film Exchange vs. I. Mazer, Roxey Theatre, Glassboro, N. J.

Tiffany-Stahl vs. Tioga and Frankfort Theatres, Phila.

The following cases were postponed to 1/4/29:

Fox Ex. vs. Hamilton Theatre, Allentown, Pa.

Vitagraph, Inc. vs. Jos. Theros, Mt. Joy Theatre, Mt. Joy, Pa.

The following cases were postponed until further notice:

Vitagraph, Inc. vs. Estate of Nicholas Deamnes, Eagle Theatre, Harrisburg, Pa.

The following case postponed pending settlement:

Vitagraph, Inc. vs. Majestic Theatre, Tamaqua, Pa.

Respectfully submitted.

Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 3053] Minutes of the meeting of the Joint Board of Arbitration held Friday, December 28, 1928, at 11.00 A. M., 1337 Vine St., Phila.

Mr. Zagrons acted as Chairman.

Case #1, Universal Ex. vs. Mrs. A. G. Huff, Huff's Theatre, Lock Haven, Pa.

Committees: Exchanges, Neufeld, Zagrons, Given; Exhibitors, Pizor, Power, Price.

Exhibitor not present.

Claim: Contract dated 10/3/28, signed by Anna G. Huff, covering 52 News, 28 weeks of Complete Service. Pictures unplayed 38 News and 21 C. S. C. Last News played 11/22/28, and C. S. C. week ending 11/24/28. Playing arrangement "Two News a week, and weekly payments for

C. S. C." In November the exhibitor discontinued playing News and C. S. C. The claim was for $175.00, made up as follows:

10 News, beginning with 11/26/28 for 10 weeks consecutively, and ending with 12/26/28, inclusive $25.00.

C. S. C. for weeks ending 12/3/28 to 12/24/28, inclusive, being 5 consecutive weeks at $30.00.

Decision: That the exhibitor pay to the exchange within seven days from date $175.00 covering the News and C. S. C. weekly service, as per claim filed, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $250.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #2, Universal Ex. vs. Louis Berman, Savoy Theatre, Bethlehem.

Committees: Same as in Case #1.

Exhibitor not present.

Claim: Contract dated 7/21/28, covering 39 single reels, 33 unplayed. Date of last picture played 12/4/28. Playing arrangement "To be played or paid for not less than three per month, beginning September 1928." Exchange had requested numerous dates and on Sept. 28, 1928, the exchange set in dates on 8 features: The claim was for $120.00 covering the 8 features at $15.00 per pictures.

The Board decided by awarding to the Exchange $90.00 covering the following subjects:

[fol. 3054]	Wax Figures	11/22-24/28	$15.00
	Bull Oney	12/3-4/28	$15.00
	Rocks and Sox	11/12-13/28	$15.00
	S. Pole Fly	11/19-20/28	$15.00
	A Horse Tail	11/26-27/28	$15.00
	Farm Yard Follies	12/3-4/28	$15.00

Decision: That the exhibitor pay to the exchange within seven days from date $90.00 covering the above pictures, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, a sum not to exceed $150.00 under each existing contract between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, in pursuance to the arbitration clause contained in such contracts as held by members of the Philadelphia Film Board of Trade.

Case #3, 20th Century Film Ex. vs. B. Fertel, Colonial, Philadelphia.

Committees: Exchanges, Neufeld, Zagrons, Wittman; Exhibitors, Pizor, Power, Price.

Claim: Contract dated October 28, 1927, covering a number of pictures, by name, Krelbar, Peerless, Excellent. 25 pictures remain unplayed. The contract provided that the exhibitor has the privilege of cancelling 3 Excellent Pictures, 4 Krelbar and 2 Peerless Pictures. The Exchange on November 20, 1928, set dates as follows:

Your Wife and Mine	December 7
Broadway Madness	December 14

After the dates were set, the exhibitor then exercised his right of cancellation, which the exchange refused to accept.

Decision: The Board found that the claim be dismissed and that the cancellation notice stand.

Case #4, Pathe Exchange vs. Jacob Gorchov, Benn Theatre, Chester, Pa.

Committees: Same as in Case #3.

Claim: Contract dated 9/19/25 and signed by S. J. Gorchov, was for 33 pictures, 3 played. Date of last picture

played 10/26/28. The exhibitor was not present but was represented by the Secretary. The playing arrangement was "One per week." Dates were set as follows:

Meddlin' Stranger	12/1	$7.50
Apache Rider	12/8	7.50
Chicago	12/15	10.00
Code of Cow Country	12/22	7.50

The claim was for $32.50 and for performance of the balance of the contract. It appeared that the exhibitor [fol. 3055] played the three pictures in question, one on October 1, 1928, one on October 20, 1928, and one on October 8, 1928.

The defense raised was that the contract was dated 9/19/28 and was not approved until October 7, 1928, which was more than 10 days after the date of the contract, and furthermore, that Section 22 of the contract provided, as follows: "The delivery of a print of any of the photoplays, or the furnishing of any advertising accessories shall not be deemed an acceptance thereof by the distributor." And further "That the contract provide unless notice of acceptance of the application by the distributor is sent to the exhibitor within 10 days covering Philadelphia, the said application shall be deemed withdrawn." And the further defence was that the playing of these pictures was wildcatting, and was not by virtue of the contract and that the exchange having failed to approve the contract within the time limitations of the contract, that the exhibitor was not bound by the contract, and that only one picture had been played after the acceptance by the exchange, namely, Friend India on October 20, whereas the two preceding pictures were played before the contract was accepted by the exchange.

Decision: The Board found in favor of the exchange and awarded $32.50, covering the rental value of the pictures which the exhibitor had failed to lift on the set dates. This amount of $32.50 to be paid by the exhibitor to the exchange within seven days from date, and upon the failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the perform-

ance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #5, Vitagraph, Inc. vs. W. Shaeffer, Regent, Littlestown, Pa.

Committees: Same as case #4.

Claim: Contract dated 3/8/28, covering three individual contracts for three individual pictures. The exhibitor did not play any of the pictures, although the exhibitor had set in the dates as follows:

Nov. 13, When a Man Loves	$25.00
Nov. 20, Missing Link	$17.50
Dec. 1, Ham and Eggs	$15.00
	$57.50

and in addition there was expended by the exchange, parcel post charges to the amount of $1.48. The claim was for the total of $58.98.

Decision: That the exhibitor pay to the exchange within seven days from date $58.98 covering the above pictures with parcel post charges, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board [fol. 3056] of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #6, Vitagraph, Inc., vs Jacob Gorchov, Benn Theatre, Chester, Pa.

Committees: Exchanges, Neufeld, Zagrons, Wittman; Exhibitors, Goldman, Power, Price.

Claim: Contract date 6/6/27, was assumed by J. Gorchov by assignment, covering 26 pictures, 4 played, leaving a balance of 9 pictures unplayed, the rest of them being covered by cancellation. Last picture played 12/16/28. Playing arrangement "One every week." Pictures in question were dated at the exhibitors request and he failed to lift them:

Nov. 20, Good Time Charlie	$15.00
Nov. 27, Sailor's Sweetheart	$15.00
Dec. 1, One Round Hogan	$15.00
	$45.00

Decision: The Board found in favor of the Exchange to the amount of $45.00, which amount must be paid by the exhibitor to the exchange within seven days from date, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #7, Columbia Pictures vs. I. Zatkin, Standard Theatre, Camden, N. J.

Committees: Same as in Case #6.

Claim: Contracts in question dated March 22, 1927, covering 26 Screen Snapshots, and Sept. 20, 1927, covering 30 feature pictures, signed by I. Zatkin. There remain unplayed 9 Screen Snapshots and 18 features. Dates were set in by the exhibitor and he failed to lift the following pictures on the dates scheduled, and the claim was for $96.00.

Screen Snapshots, #17, 9/21, $1.50, That Certain Thing, 10/24, $10.00.

Screen Snapshots, #19, 9/28, $1.50, Tigress, 10/17, $10.00.

Screen Snapshots, #21, 10/5, $1.50, Wife's Relations, 10/31, $10.00.
Screen Snapshots, #23, 10/12 $1.50, So This Is Love, 11/7, $10.00.
Screen Snapshots, #24, 10/15, $1.50, Woman's Way, 11/14, $10.00.
Screen Snapshots, #25, 10/19, $1.50, Sporting Age, 11/21, $10.00.
[fol. 3057] Screen Snapshots, #101, 10/26, $1.50, Matinee Idol, 11/28, $10.00.
Screen Snapshots, #103, 11/2, $1.50, Desert Bride, 12/5, $12.50.
Screen Snapshots, #105, 11/9, $1.50.
Total, $96.00.

Decision: That the exhibitor pay to the exchange within seven days from date $96.00 covering the above pictures, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor, or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors, demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts, between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, a sum not to exceed $2.50 under each existing contracts, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

Case #8, Fox Ex. vs. J. Rose, Rose Theatre, Philadelphia, Pa.

Committees: Exchanges, Neufeld, Wiener, Wittman; Exhibitors, Goldman, Power, Price.

Mr. Pizor acted as Chairman.

Claim: Application was made for the postponement of this case because of the illness of the exhibitor, and the Board refused to grant the postponement upon the objections of the exchange being filed thereto, that the case has been scheduled for the week previous and had been postponed once. Information of the Secretary of the Film

Board of Trade was to the effect that a representative of the exhibitor had advised the Secretary of the Film Board of Trade an hour before the meeting that the exhibitor was confined to his home with influenza. The Board ordered the case to proceed in absence of the exhibitor. Contracts in question dated 7/30/27, covering features and comedies, and 9/29/28 for News. Features and comedies contract were assumed by the exhibitor by assignment; and the News contract was entered into by him. Contracts covered 57 features, 26 Comedies, 52 News. Pictures unplayed 19 features, 10 Comedies, 45 News. Last picture played was Nov. 11-12, 1928. Last comedy played was 7/27/28, last News played was 11/26/28. Playing arrangement "Five per month on features, 2 per month on comedies, one per week on News." Exhibitor set in his own dates. Exhibitor tendered in payment to the exchange a check in amount of $25.00 covering the picture Hello Cheyenne at $15.00, played Nov. 11-12, and News #11 at $10.00 played same dates. This check was returned by the bank marked N. S. The claim was for $25.00 as represented by the bad check and for the rental of the following pictures:

Escape, 10/20	$7.50
News #15, 11/19	10.00
News #17, 11/26	10.00

[fol. 3058] or an entire total of $52.50.

Decision: That the exhibitor pay to the exchange within seven days from date $52.50 covering the above, and upon failure of the exhibitor to comply with the decision of the Board, then the distributor or any other distributor of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, may at the option of each one of such distributors demand for its protection and as security for the performance by the exhibitor of this and all other existing contracts between the exhibitor and each distributor member of the Philadelphia Film Board of Trade, with whom the exhibitor has any contracts, a sum not to exceed $150.00 under each existing contract, in pursuance to the arbitration clause contained in such contracts as held by the members of the Philadelphia Film Board of Trade.

The following cases were marked settled or discontinued:
Vitagraph, Inc. vs. Elmer Theatre, Phila.

Vitagraph, Inc., vs. New Colonial Theatre, Phila.

20th Century vs. Lehigh and West Allegheny Theatres, Phila.

Liberty Ex. vs. Ideal Theatre, 1905 Columbia Ave., Phila.

Liberty Ex. vs. Roxey Theatre, Glassboro, N. J.

The following cases were postponed to January 4, 1929:

Columbia Pictures vs. Wm. Gershman, Parkside Theatre, Camden, N. J., involving two claims.

Fox Film Ex. vs. M. Wax, Fays Theatre, Phila., involving 2 claims.

Columbia Pictures vs. F. Hollister, O. H., Girardville, Pa.

Tiffany-Stahl vs. Frankford and Roosevelt Theatres, Phila.

Vitagraph, Inc. vs. Jos. Theros, Mt. Joy Theatre, Mt. Joy, Pa.

Fox Ex. vs. Hamilton Theatre, Allentown, Pa.

Respectfully submitted,

Geo. P. Aarons, Secretary Joint Board of Arbitration.

GPA:ASH.

[fol. 3059] GOVERNMENT EXHIBIT 39

FEDERAL TRADE COMMISSION, WASHINGTON, D. C.

I, Otis B. Johnson, Secretary of the Federal Trade Commission, being charged with the custody of the official files thereof, do hereby certify that the annexed is a full, true and complete copy of transcript of proceedings of Trade Practice Conference in the Motion Picture Industry, held under the auspices of the Federal Trade Commission, at New York, N. Y., October 10-15, 1927.

In testimony whereof, I hereunto subscribe my name and affix the seal of the said Federal Trade Commission at my office in the City of Washington, D. C., this 7th day of March, A. D., 1929.

Otis B. Johnson, Otis B. Johnson, Secretary. (Seal Federal Trade Commission, United States of America. MCMXV.)

[fols. 3060–3375] 21-45-3-2

Duplicate

Official Report of Proceedings Before the Federal Trade Commission

Docket No. —

In the Matter of Trade Practice Conference, Moving Picture Industry

At New York (Bar Association).
Date: October 10, 1927.

Pages 1 to 429

Ralph Stemm, Official Reporter, 225 Broadway, New York

[fol. 3376] Mr. Woodhull: The Exhibitors offer the following resolution to be known as Exhibitor's Resolution No. 6.

Exhibitor's Resolution No. 6

Whereas, the Standard Exhibition Contract contains clauses and added clauses, which, in actual operation have proved to be unfair and prejudicial to the interests of exhibitors, and:

Whereas, experience has demonstrated that in numerous instances said contract has been employed unfairly and un-[fol. 3377] justly to further the interests of the producers and distributors and to the prejudice of exhibitors, and:

Whereas, it is absolutely impossible for exhibitors to obtain product for exhibition without signing said contract and acceding to said clauses:

Now, therefore, be it Resolved: That it is the sense of this conference that the continued use and enforcement of said Standard Exhibition Contract constitutes an unfair trade practice, and it is further:

Resolved that a body of seven be immediately selected, consisting of three members chosen by the exhibitor delegates here assembled, three members by the producer-distributor delegates and one to be designated by the Federal Trade Commission to act as Chairman, with full power to

investigate and adopt a contract which shall be fair and equitable to both sides and insure justice to all parties.

Colonel Pettijohn: This resolution which has been submitted goes to the subject matter of two of the major propositions before this conference and probably if we can dispose of those two major matters before you have a conference committee on probably two other major matters it may be some incentive to the gentlemen on both sides to get together on those matters. I submit, in lieu of the resolution read by Mr. Woodhull, with his knowledge and consent, a substitute resolution which has been discussed, [fol. 3378] worded and worked out by Mr. Grainger and myself, representing the left wing with Mr. Seider, Mr. Hess and Mr. Charles O'Reilly, representing the center wing, if wings are in the center. This substitute has been read—we only have two copies—we have not had a chance to get it to all of you, but it has been read to such leaders in both sections of the room as we have been able to accidentally meet and hurriedly read to them. We believe that it solves two major matters that are now pending before this conference. We believe that this resolution can be passed by both sides. I desire to read it to you as a substitute and to state again, before reading, that it has been discussed with leaders on both sides and yet I have heard no objection to it, and I will now read it:

Substitute Resolution No. 6

Whereas, the motion picture industry recognizes that commercial arbitration promotes goodwill, economy and better standards of business and is endeavoring to develop in the most complete way possible a system of arbitration for the settlement of disputes between distributors and exhibitors which will be both fair to all and speedily expedient; and

Whereas, it is the desire of all branches of the industry to use a uniform exhibition contract both to standardize its contractual relations and to provide for such arbitration; and

[fol. 3379] Whereas, it is the further desire of all branches of the industry that the Standard Exhibition Contract so providing for such system of arbitration shall be — fair as

possible at this time and shall be changed or modified as from time to time experience may demonstrate that it should be changed, and the further desire that the present provisions of such contract and all future changes or modifications herein shall themselves be subject to arbitration and the further desire that the rules and regulations for the arbitration of all disputes arising under such contract shall be as fair as possible at this time and shall be changed or modified from time to time by arbitration as experience may demonstrate and warrant that they should be; and

Where as, it is believed that changes can be affected in such Standard Exhibition Contract to improve the same:

Now, therefore, be it resolved:

1. That to carry out the purposes of this resolution and the desire of all branches of the industry to promote fair arbitration and contractural relations, a committee of six shall be immediately designated consisting of three members chosen by the Exhibitor delegates here assembled and three members chosen by the Producer-Distributor delegates here assembled; that such committee shall immediately institute a study of the provisions of such Standard Exhibition contract and the rules for the arbitration provided for therein and develop improvement in such contract and in such Rules for Arbitration and develop a plan [fol. 3380] for the further operation of arbitration. In the event the Exhibitor members and Producer-Distributor members of said committee are unable to agree, a seventh member of such committee shall be designated, such seventh member to be chosen unanimously by the six members and if such six members cannot unanimously agree on such seventh member, then the Chief Justice of the Supreme Court of the United States shall be asked by such Committee to appoint its seventh member.

2. That after such adoption of such modified Standard Exhibition Contract and such modified Rules of Arbitration, it shall be the further purpose of such committee to have periodical considerations of both said contract and Rules of Arbitration at consistent periods under the plan therefor which said committee shall develop to consider whether changes in such Standard Exhibition Contract and Arbitration Rules are wanted by experience, and at such

periodical deliberations the seventh member may be called in for decisions.

3. It is understood that such amended Standard Exhibition Contract and amended Rules of Arbitration shall be ready for use for the season of 1928-29.

Be it further resolved that the use of a Standard Uniform Contract providing for arbitration both of disputes arising out of said contract and of the provisions of the contract itself, is a fair trade practice.

Colonel Pettijohn (continuing): This is submitted as a substitute resolution. I do not know whether it is necessary [fol.3381] (I may be too optimistic) for it to go back to any formulas or any side room meetings or not, but for the purpose of ascertaining whether that is necessary or not I move for the adoption of the substitute amendment.

Mr. Levy: May I ask Colonel Pettijohn to insert in the first resolution the word "independent" after exhibitors where he states three exhibitors are to be chosen.

Mr. Desberg: On behalf of the affiliated exhibitors we would like to have the privilege of representation on that committee without vote.

Colonel Pettijohn: Is there any objection to the attitude of purchasers and distributors on that amendment.

The Commissioner: It occurs to me Mr. Pettijohn that really the last paragraph of the resolution, namely, that something or other is an unfair method of competition, is more or less surplusage, because the substance is that this is an agreement between several branches to arbitrate with respect to the standard contract., I think that is a perfectly proper thing for this conference to do. On the other hand I do not see that it has very much to do with the Federal Trade Commission. I am perfectly willing it should be presented here, acted on here, but I do think it should be presented as a conference resolution and not as a resolution defining unfair trade practices to be reported to and considered by the Commission, because as I view it the action of this conference will be final on that resolution [fol. 3382] anyhow.

Mr. Pettijohn: May I just submit the conditions, that the adoption and use of arbitration in the motion picture industry is a trade practice. That the adoption and use of the standard exhibition contract in the motion picture industry is a trade practice. This formula only undertakes to do away with the honest complaint, but as far as being a subject matter for a trade practice. I submit again that the use of arbitration in the motion picture industry is a trade practice. It has been commended upon by the various Chambers of Commerce and I am advised that fifty other trade organizations within the past year had adopted arbitration as a trade practice, so that I submit, hoping that I may suggest to you that the use of arbitration in the motion picture industry is a trade practice, and the use of a standard exhibition contract is a trade practice.

The Commissioner: I have no hesitation in saying at all what the policy of the United States and the law is in favor of arbitration. It has been embodied in recent statutes, particularly the Admiralty Statutes. I was merely thinking and thinking aloud whether that was a proper thing for the Commission to undertake, but I think that is something that can be resolved later any way. Is there any objection to the substitute Mr. Woodhull?

[fol. 3383] Mr. Woodhull: We accept the substitution.

The Commissioner: For reference back?

Mr. Woodhull: For further consideration, not for final action at this time.

Mr. Pettijohn: May I suggest before that is done, I was hopeful that when anything so obviously fair, which is so hard to work out and has been written so many times and introduced as a substitute resolution, if it goes back to the committee and to another committee here I am wondering whether or not we are going to get the question solved. I view with alarm the apparent danger. If this is right, if it is constructive, it will pass. If it is wrong it will be defeated. But as it goes back to be consulted with another conference committee and a third and a fourth one is drawn, it must be taken all around again and all this work done over and I question whether or not we are going to obtain the resolution we want to obtain, and I believe there

are men here among these theatre owners. I think there are at least twenty men who have served on these arbitration boards for the last three years without pay who have come here from great distance who would like to see this question solved. I think sending it back to some other committee, or trying to get another agreement on the same, I think it is going a long way towards solving this.

Mr. Woodhull: Didn't I use good English, but to sum it up the entire fairness of Mr. Pettijohn's resolution we are considering of course, but it is one of those very impor-[fol. 3384] tant propositions in our business that must go back to the parent body and will be considered tonight, and that we are very happy to consent to.

The Commissioner: Do you think there is any possibility by a free discussion here pointing out the difference between the resolution and the substitute, that your body with that exposition of the two resolutions, that your delegation will be ready to act?

Mr. Woodhull: You mean, right here? No.

Mr. Bernstein: The organization asks to have that reported back to them because those are those instructions in regard to any and all resolutions. I am sure Mr. Pettijohn's substitute is one that all the leaders have agreed upon, in fact most of them I think wish to put it to a vote of the delegates present at this time and we could get action on it right now.

The Commissioner: I understood you to say that there was a standing rule for referring back matters, a rule of the exhibitors organization. I would not want you to stand on the rule if you thought you could expedite the business.

Mr. Bernstein: I am sure the delegates present could solve that.

Mr. Woodhull: It will be considered in their individual meeting tonight.

The Commissioner: Is it essential?

[fol. 3385] Mr. Woodhull: Very essential.

The Commissioner: In the face of that I cannot very well insist that you go through with it now, but it occurs to me Mr. Woodhull that with a brief exposition of the essential difference between the resolution you have already agreed to and which you presumably are ready to vote on

now, and the substitute which seems to be along the same general lines, with that before you you ought to be able to vote now, and the substitute which seems to be along the same general lines, with that before you you ought to be able to vote now.

Mr. Woodhull: Let me understand what you mean. You would like to have us take final action on this plan here now?

The Commissioner: I say this, you have the resolution before the conference. Of course you are prepared to take final action on that or you could not have brought it forward. A substitute is proposed which differs from it in some particulars. I do not think there are many, and as I understand them, they are not vitally different, and since your group is committed to that general plan why cannot the differences between the two be patted out now so that you can vote.

Mr. Pfeiffer: It has been my privilege to study very closely in connection with the deliberation of the exhibitor group with respect to this particular resolution. It has been a great fight with them as to how to present at this conference the exact grievances which have arisen. After considerable discussion last night this resolution was formulated with a view to calling to the Commissioner's at-[fol. 3386] tention, if it had not already been called that there are arising out of this particular contract certain grievances and unfair situations which we exhibitors believe to be among the prime things that are distressing them in their industry? That resolution was shown and offered here on the floor this morning. You receive from Mr. Pettijohn this substitute resolution on which we had some conference and I want to point out in all fairness and to lay this squarely on the table the thing that is in the back of the minds of the exhibitors present at this conference here, whether or not that resolution is offered on the level, and if it is, these exhibitors and delegates, if you can convince them, if the distributors and producers section can convince them that this is not as one of them observed, just another run of that sort, I think all of us will be in favor of it.

Mr. Pettijohn: That is the speech I was fearful would be made. That is why I stretched the point while we are

in the frame of mind to do something constructive within this industry and at this conference, it would be better without indulging in such in*sul*tations or statements. (Interrupted by a delegate.)

Mr. Pettijohn: I will not yield. I now insist and I have Mr. Grainger's consent. Mr. Grainger and I now insist that the matter be put to a vote. We cannot get anywhere in this conference by accusing each other of not being on the level. You have got to have some sort of a spirit of belief [fol. 3387] in each other or you cannot get together on any single one of these trade practices. My only reasons in suggesting a moment ago, and now I insist, was to avoid just what has happened and no other reason in the world. We have had our difficulties in arriving at the substance of that resolution and we will have more difficulties if any more statement like you have made are repeated.

Mr. Pfeiffer: I repeat there is no sense in veiling what is on our mind.

The Commissioner: I do not give a continental what is on your mind. You have got two resolutions before this house written in the English language. It seems to me they are fairly before the body, the differences are pointed out and you know what they are voting about. It is not going to get us anywhere if we go beyond the language of the resolution. We are all presumably intelligent and if we are not there is no help for us.

Mr. Woodhull: On behalf of the exhibitor body now in session, I am going to accept Mr. Pettijohn's resolution with the proviso that if any exhibitor has anything to say against my opposition then let him say it.

Mr. Brecher: Mr. Chairman I am not rising to oppose the resolution, not to substitute, nor to favor it but merely to express the thought that there is a considerable volume of opinion among the unaffiliated exhibitors, a great many [fol. 3388] of whom are seated and have not risen to any call. There is a serious doubt as to whether this entire matter to be met at a supposed conference sometime in the future is a proper matter to come before this conference.

The Commissioner: Your resolution has been brought forward and presumably you are ready to stand on it.

Mr. Hess: This is one resolution that has been considered very carefully by both sides. Our chairman has made

a very fair proposition and I think the majority would not object to the chairman of the exhibitors in asking that this matter be taken up immediately.

The Commisisoner: Mr. Mayers will read the resolution and the proposed substitute.

Mr. Samuelson: I desire to ask your opinion as to just exactly what, as to how you interpret the last clause of this resolution which reads as follows: "Be it further resolved that the use of a standard uniform contract providing for arbitration both of disputes arising out of such contract and of the provisions of the contract itself, is a fair trade practice." Does that clause mean that everything that has happened heretofore under the present standard exhibition contract or the old uniform contract is declared a fair trade practice? In other words is that clause retroactive?

From Mr. Pettijohn's statement to me when I just raised [fol. 3389] the question regarding this provision, I gathered that the intention was that the uniform contract providing for arbitration was a fair method of competition. The only difficulty I would have about that arises out of the use of the words set off by comma, or as herein set out. I assume that if the purpose was simply to provide that standard provision of arbitration is a fair method of competition it would be entirely acceptable to strike out that clause.

The Commissioner: I personally cannot see how it could have a retroactive effect.

Mr. Pettijohn: I do not think there would be any objection to strike it out.

Mr. Samuelson: You do not object to striking out the last paragraph?

Mr. Pettijohn: I did not say that. My reply is directed to the Commissioner, and what he has just said.

Mr. Samuelson: Then, Mr. Commissioner, to allay the feelings in many of our hearts—we say in our hearts because this thing hits us in all parts of our body—I can feel perfectly safe that when and if this conference adopts this resolution including in it the last clause which provides that such a contract is a fair trade practice that it will not in any way effect any disputes heretofore started or liable to be started as a result of the standard exhibition contract or the uniform contract, am I correct?

[fol. 3390] Mr. Pettijohn: State that once more please.

Mr. Samuelson: This clause does not in any way affect anything under the present standard exhibition contract or the uniform contract: that is, you are not trying to declare that the present standard exhibition contract, with an arbitration clause in it, is a fair trade practice.

Mr. Pettijohn: Let me see if we understand each other. I do not quite figure what you addressed that remark to unless you address it to the fact that you now have pending certain litigation against the distributors but you do not want them affected by any resolution passed here. If so we could stipulate that.

Mr. Samuelson: I am not merely taking my own attitude. My own position has been amply covered between my attorney and yours.

Mr. Pettijohn: I do not see what your remarks are addressed to.

The Commissioner: Possibly I might help and maybe I might muddy up the waters. I rather gather that the question is whether the use of a standard contract providing for arbitration of disputes is a fair method of competition or whether the use of practices under the existing contract is the thing in mind. The language I think is fairly plain. It says under a contract providing for arbitration, it is a statement of the principle and not of the particular contract or state of facts.

[fol. 3391] Mr. Pettijohn: May I say that no where is there any joker hidden in the whole thing.

Mr. Samuelson: Taking that in the spirit in which it is offered and understanding now that there is no joker in this or no possibility of any future misunderstanding, there are now several other points that are vaguely in my mind. I would like to ask Mr. Pettijohn whether he would accept: "Now therefore be it Resolved, and so forth, on the fourth line in front of the words Exhibitors, the word, "unaffiliated".

Mr. Pettijohn: In other words you ask me if we, Mr. Grainger and I, representing the Film Board of Trade, Mr. Grain-er representing the Fox Film Corporation, would designate to you men who those three exhibitor representatives shall be. That is all what you are asking. This is the place to settle that, gentlemen.

The Commissioner: If you will let me say a word, I understood the representative of the affiliated exhibitors to

say that they would be satisfied with participation in the conference without right to vote. Is that a fact?.

Mr. Desberg: That is a fact. Resolved that two members selected by the affiliated exhibitors participate in all conferences and deliberations but without vote.

Mr. Seider: The copy that you have there seems to have left out the word "delegate", the word "unaffiliated" that is on the fourth line, paragraph one, three members chosen by the exhibitor delegates. The word "unaffiliated" with [fol. 3392] any producer or distributor here assembled. I will ask Mr. Pettijohn to consent to the amendment.

Mr. Pettijohn: I am willing to consent to anything that you exhibitors might point out among yourselves.

The Commissioner: Why don't you propose this amendment, that the three voting delegates shall be unaffiliated but that two affiliated delegates may participate without the right to vote.

Mr. Pettijohn: That is acceptable.

Mr. Samuelson: Under those plans I feel that I have expressed the opinion for some of the men that this substitute is a fair substitute for the resolution.

The Commissioner: In view of that will it be necessary to have a roll call.

Mr. Brecher: Just on a point of information, I am not sure whether you are going to rule that this would be considered a fair practice or whether you said this would have the same force and effect. I bring that point out not only for my own information but others.

The Commissioner: I expressed some doubt at the outset. I cannot say my mind is entirely clear about that, yet. Of course it can only be finally resolved by the Federal Trade Commission along with all the other resolutions, but without regard to that it is certainly the action of this conference, and I should think that as such it would be [fol. 3393] binding on you morally, even if the Federal Trade Commission did not undertake to enforce it. It would be the binding action of this conference as a resolution without reference to the question being decided by the Commission.

Mr. Brecher: It is not quite clear.

Mr. Hess: As to the labors of this conference to work out this uniform contract will the time allowed be just the time of this conference?

Mr. Pettijohn: Let there be no question about that. The time necessary to work out a new contract and consider the advantages in the rules of arbitration will extend far beyond the time of this conference.

Mr. Stabb (of Wisconsin): The substitute provides that such representatives to draft a uniform exhibition contract be appointed immediately. I feel that our limitation of time to act on it would be too short. I feel, or rather the exhibitor group does, who are mostly involved, shall have the right to deliberate the recommendation as such as they would choose to have represent them and I imagine that the substitute might be amended to that extent.

The Commissioner: Do you understand the choice must be made right here, this evening or tomorrow?

Mr. Samuelson: Before we get away we should have the privilege of a conference.

The Commissioner: Aren't we all agreed on that right here?

[fol. 3394] Mr. Rembusch: Perhaps I have not quite grasped the situation. I would like to have the information just the way the resolution is worded. It appears to me that it sort of qualifies the contents of the contract. I think we will have to have a new contract. It just occurs to me that is quite a great task. Certainly I would like to have the privilege of passing my opinion on the contract and all of the other delegates also.

The Commissioner: You must select those in whom you have confidence. They must have knowledge of your wishes and desires in the premises when they act as representatives. That is final. There could not be a referendum on the action of the conference otherwise, there would be no arbitration, and secondly you would never accomplish anything.

Mr. Rembusch: We would like to be able to pass on it.

The Commissioner: Mr. Rembusch, isn't this the situation? That your group will have the privilege of selecting three representatives, Mr. Pettijohn said in reasonable time, not immediately, but promptly. You are all here I do not know when you will get together like this again; I

would like to see you get together often. I suppose you are going to be here for a day or two, you will be here tomorrow and tonight.

Mr. Rembus-h: I hardly think it could be accomplished that quick. I wish to get this clear in my mind. Does the [fol. 3395] resolution in any way qualify what the future contract shall be?

The Commissioner: Do you want me to answer that question. I will have to read that resolution again.

Mr. Rembusch: I withdraw that question.

Mr. Suchman: There is just one thing. The third provision. It is provided for that the contract will be ready for the season of 1928 and 1929. Most of the buying of the films is done around August and September of the year. The doubt in my mind is this, that in the event the contract is not ready for use for the pictures of the ensuing season would the authors of this resolution consent to have the pictures with a retroactive amendment showing that this contract should preclude this.

Mr. Pettijohn: The Commissioner will probably answer that instead of me. We cannot take contracts that are now in existence that may be written tomorrow and tear them up and make them apply to something you have not yet begun to consider.

Mr. Seider: That isn't the question, Mr. Suchman asked. In the event the new contract, the proposed contract has not been agreed upon in time for next season, whether the pictures we will buy for next year, the year hence, will they be under the new contract even though it is not written?

The Commissioner: How can you buy goods now under a contract to be agreed on later?

[fol. 3396] Mr. Suchman: We have done that in the past. We had a clause in our contract which provided that when a new contract is agreed upon, that contract shall go into force and effect.

Mr. Pettijohn: Supposing you bought pictures in August and the contract is ready for September?

The Commissioner: Will this purchase be subject to the contract when and if agreed upon?

Mr. Pettijohn: If it is a reasonable time.

Mr. Seider: We want to make you give us a contract before next year.

Mr. Conners: You mean on the contract some of the companyies start to sell in May or June and then if the contract is ready for September, a reasonable time I should judge would be whenever the lead-off man in the producing field starts to sell their product first, the beginning of the new season's product, regardless of a reasonable time, when they start to sell and the contract is not ready then it will be understood the pictures are——

Mr. Pettijohn (interrupting: This April and May it is intended to have it ready for next season's product.

The Commissioner: Is that assurance enough for the exhibitors or are you going to try and further amend it.

Mr. Rembus-h: It seems to me the first of January would be a good time to have new contracts gotten out.

Mr. Wehrenburg: Now then if the contract as it now [fols. 3397-3424] stands—the resolution as it now stands and the amendment does that include the unaffiliated exhibtors. In article 1 it says:

The Commissioner: I know what you are talking about. To save a little time it provides three representatives shall be unaffiliated representatives of which two affiliated members can participate but cannot vote.

Mr. Pesberg: I have been requested, we have no vote. That should be increased to three.

The Commissioner: I think certainly your representation ought to be equal to that of the other branches and as they are to have no vote I cannot see any objection to it. I expect everybody to agree to that.

Mr. Pettijohn: I do not want any misunderstanding in anything. The purport of this resolution is to use the word "immediately" and to now change it to promptly. As I understand it we are going to make an honest effort to as speedily as possible work upon the new standard exhibition contract and as I understand it until we do that we operate under the present contract we are now operating under, so there will be no misunderstanding.

The Commission: I will call for a standing vote on the substitute resolution as amended in the conference. All in favor will arise. (Be seated.) Opposed stand up.

Receive resolution of the conference with one opposing vote.

[fols. 3425-3459] Mr. Woodhull: The exhibitor has made a statement and everything he has said is true and one of the most important measures before the producers and exhibitors as to the distributors was the new plan of making contracts and I believe the reason for that—this is one of the most important things we would like to get out of the way.

[fol. 3460] Mr. Desberg: May I at this time indicate to you the members who have been selected to work on the [fols. 3461-3494] contract or is that a part of our proceedings.

The Commissioner: Any other designations.

Mr. Desberg: The others are ready.

The Commissioner: If you agree to put them on the record you are at liberty to do so.

Mr. Desberg: I should be very glad to.

For the Affiliated Exhibitors: E. A. Schiller, Harold Franklin and Fred Desburgh. The Alternates are: E. V. Richards, Ben Michaelove and Harry Crandall.

May I state inasmuch as this is the conclusion of the proceedings upon behalf of our group, we are very appreciate of the spirit displayed here and we are very thankful for your consideration and cooperation in this conference.

Mr. Woodhull: The names selected for our group are as follows:

For the Exhibitors: R. R. Biechels, Ben Bernstein, Nathan Yeamans. The Alternates: A. C. Roe, H. A. Cole and Joseph Walsh.

And it is the particular desire of the exhibitor group Mr. Commissioner, that a day be set if possible, as soon as possible to get to work on this very important matter.

[fol. 3495] GOVERNMENT EXHIBIT 40

Original Draft Submitted by the M. P. T. O. of A.

Agreement made in quadruplicate this — day of ——, 1922, between the —— —— corporation, hereinafter called the "Distributor," and —— ——, an exhibitor, operating the —— Theatre, at No. — —— Street, in the City of

——, State of ——, hereinafter called the "Exhibitor," such agreement being made and entered into at the —— Exchange of the Distributor,

Witnesseth: That in consideration of the mutual covenants herein contained, the parties hereto hereby agree as follows:

First. It is agreed by the parties hereto that the Distributor does hereby grant to the Exhibitor, and the Exhibitor hereby leases from the Distributor, one copy of the following photoplays, to be paid for in advance:

Title of Production	Consecutive Days Run	Exhibition dates	Zone	Run	Rental
.....	....	....	....	....	....
.....	....	....	....	....	....
.....	....	....	....	....	....
.....	....	....	....	....	....

Second. The Exhibitor agrees to pay all costs of transportation and for all advertising matter ordered by him.

Third. The Exhibitor agrees to exhibit said motion picture only at the theatre or theatres specified above on the date or dates herein set forth.

Fourth. The Exhibitor agrees that if a film is lost, destroyed or damaged while in his possession, the Exhibitor will pay to the Distributor therefor the actual cost of replacement, but not to exceed five cents per lineal foot of the film so lost, destroyed or damaged, in full settlement of all claims.

[fol. 3496] Fifth. The Distributor agrees that he will deliver to a common carrier or to the agent of the Exhibitor, a copy of each film in time for exhibition at the theatre of the Exhibitor on each of the dates above set forth.

Sixth. If the Distributor fails to deliver any of the films above listed according to the terms of this contract, then and in that event the Exhibitor at his option may declare the entire contract void.

Seventh. During the life of this agreement, the Distributor agrees that it shall not permit the exhibition of any of the films above specified in any other theatre in zone — of town ——, until — days after the final date of

showing of such film as above set forth. The Distributor and the Exhibitor recognize the impossibility of ascertaining the exact amount of damages that may be sustained by the Exhibitor in the event of a breach by the Distributor of any of the provisions of this section. It is hereby agreed by both parties hereto that in the event of such a breach, the Distributor will pay to the Exhibitor as liquidated damages, an amount equal to double the amount of the rental price paid or charged for such pictures, and, in addition thereto, any sums or sum charged by or paid to the Distributor to or by any theatre or theatres in said zone or town where such breach may occur, and such picture be shown.

In the event that the Distributor shall fail to provide the Exhibitor with any of the above pictures at any of the times above specified, it is hereby agreed that the Distributor shall pay to the Exhibitor as liquidated damages, in accordance with the provisions of this section, an amount equal to double the rental value of the picture so failed to be delivered, except that if such failure occur on Saturday, Sunday or a legal holiday, then the amount of the liquidated damages to be paid to the Exhibitor shall be trebled the rental value. If in such event, the Distributor sends a substitute film for the one herein provided for, the Exhibitor, if he accepts such substitute, shall not be obliged to pay any rental therefor. It is understood, however, that the payment of liquidated damages as herein provided for, or the acceptance of a substitute film for any failure to deliver, shall not relieve the Distributor from furnishing the original picture to the Exhibitor on some other date to be mutually agreed upon in accordance with the terms of this agreement, if the Exhibitor shall elect to show the picture at some future date.

[fol. 3497] Eight. Where dates are set at the time of signing of this contract, either party may change same by giving at least two (2) weeks' notice in writing to the other, or by less notice if mutually agreed to. New dates must be given and accepted at the time of change. Either party may refuse to allow or accept more than one change of play dates, unless the film is paid for by the Exhibitor. Where dates are changed by the Exhibitor, the protection

herein originally granted by this contract, shall be waived to the extent that the dates changed do not entirely wipe out the original protection. Where dates are changed by the Distributor, the original protection shall be maintained in full force.

Nine. If dates are not set at the time of signing of contract, the Distributor shall notify the Exhibitor of its readiness to accept play dates on each photoplay, and the Exhibitor agrees to give such play dates within six (6) weeks after such notice, provided, however, that in the case of a series feature contract the Exhibitor shall not be required to play more than one production of such feature series every five (5) weeks.

Ten. Of the above named films, the following are re-issues or re-created pictures: ——.

Eleven. On the above named films, the following houses have day and date bookings in zone — of —— city, as covered by this contract: ——.

Twelve. The Exhibitor will not allow any of the above photoplays to leave his possession during the periods above stipulated, and he will not exhibit or allow to be exhibited any of the said photoplays at any other place or places other than specified in this contract, or on any other day or days other than those specified. That he will return said film to the Distributor on the first train or by common carrier immediately after his last show.

Thirteen. That in the event of national or local calamity, censorship, express delays or damage caused by the elements, strikes, postal or delivery service, riots, insurrections, war, bankruptcy or any order of the court which shall render the performance of this contract impossible [fol. 3498] by either the Exhibitor or Distributor, and by reason thereof either party is unable to perform his part of said contract, he shall be held free and harmless from any and all claims for liability or for damage of any kind, nature or description resulting therefrom, and both the Exhibitor and the Distributor hereby waive all right to any damage or compensation by reason thereof, but each of the parties hereto shall give notice to the other of his

inability to perform said contract as soon as such fact be ascertained.

Fourteen. This contract shall be binding upon both parties hereto immediately upon the affixing of the signature of the Exhibitor and a representative of the Distributor to quadruplicate copies hereby, unless notice by registered mail or telegraph of the rejection hereof by the Distributor shall have reached the Exhibitor fifteen (15) days East of the Mississippi and by twenty-five (25) days West of the Mississippi, from the date of such signature. The time, however, for the rejection of this contract by the Distributor may be shortened, if mutually agreed upon at the time of the execution of this contract.

Fifteen. It is further agreed that the Distributor shall not offer any of the above photoplays for sale in the zone or town covered by this contract, until after the Exhibitor shall have received notice of the rejection of this contract as herein provided for. Should the Distributor offer any of the photoplays above listed for sale in the zone or town covered by this contract, prior to the receipt of the notice of rejection by the Exhibitor, as herein provided for, then and in that event, the Exhibitor may at his option demand the performance of this agreement irrespective of any rejection, and the Distributor agrees hereby, upon such demand being made, to deliver to the Exhibitor all of the above named photoplays in accordance with the terms of this agreement.

Sixteen. Where this contract shall specifically designate certain photoplays by title, this contract shall be non-cancellable by either party, but where it embraces a series of pictures consisting of more than two of each series, that part of the contract may be cancelled by either party on giving written notice to the other, providing, however, that at least two pictures of the series cancelled be played or paid for, and provided further, that one picture of each series shall be played or paid for after the notice of cancellation is given.

[fols. 3499 & 3500] Seventeen. It is further agreed that if the theatre of the Exhibitor close for a period of four

(4) weeks or more during the Summer season, this contract may be voided by either party hereto.

Eighteen. This contract may not be assigned by either party without the written subscription hereto of the assignee, and the written consent of the parties hereto.

Nineteen. It is expressly agreed that no promises or representations have been made by either party to the other except as set forth herein.

Twenty. A signed copy of this contract shall be left with the Exhibitor at the time of signing of this contract.

——— ———, Distributor, ——— ———, Exibitor. ——— ———, Distributor's Representative.

[fol. 3501] GOVERNMENT'S EXHIBIT 41

Draft Submitted by Hayes to M. P. P. & D. of A., Rejected.

Motion Picture Producers & Distributors of America, Inc.

Substance of Standard Clauses of Proposed Uniform Exhibition Contract

1. The Distributor grants and the Exhibitor accepts a license under copyright to exhibit certain specified photoplays or a series of photoplays of a certain description released by the Distributor within a specified period.

The Exhibitor agrees to pay for each photoplay three days in advance of the date of the shipment from the Distributor's exchange of the positive print of such photoplay in time for the scheduled exhibition at the Exhibitor's theatre.

2. The Exhibitor agrees to pay all cost of transportation of positive prints from the exchange or the previous exhibitor (as the case may be) and back to the exchange; or, if directed by the Distributor to ship positive prints elsewhere than to the exchange, the Exhibitor will do so transportation charges collect.

3. The Exhibitor agrees to exhibit said photoplays only at the theatre above specified on the date or dates above set forth or determined as hereinafter provided.

4. The Exhibitor agrees to return all positive prints delivered by the Distributor in the same condition as they were in when received by the Exhibitor, reasonable wear and tear due to proper use thereof excepted. The Exhibitor shall pay to the Distributor the sum of eight cents for each linear foot of positive print lost, stolen, destroyed or injured in any way in the interval between the delivery [fol. 3502] thereof to the Distributor, in full settlement of all claims for such loss, theft, destruction or injury. Such payment, however, shall not transfer title to or any interest in such positive prints to the Exhibitor or any other party, nor release the Exhibitor from liability for any use or retention of or delay in returning positive prints in violation of this agreement.

5. The Distributor agrees to deliver to a common carrier or other agent of the Exhibitor, a positive print of each of the above photoplays in time for exhibition at the Exhibitor's theatre on the dates above specified or determined as hereinafter provided, but the Distributor shall not be liable for any failure or delay in making deliveries resulting from the elements, accidents, strikes, fires, court orders, censor rulings, delays of any common carrier, failure of the Producers of any of such photoplays to make or deliver them to the Distributor, or of any of the above named stars to appear therein in time for delivery as above provided, or the failure or delay of any prior Exhibitor in returning any positive print to the Distributor, or by reason of any cause not within the control of the Distributor whether of a similar or any other nature. It is understood, however, that the neglect or default of the Distributor's agents or employes in making deliveries hereunder shall not be deemed a cause beyond the Distributor's control.

6. The Exhibitor will not allow any positive print of any of said photoplays to leave his possession during the period specified for the exhibition thereof by the Exhibitor, and will not exhibit or permit the exhibition of any such positive print at any other place or on any other dates than those herein specified or determined as herein provided. The Exhibitor will return each positive print received by him hereunder to the exchange of the Distributor, or as

otherwise directed by the Distributor, immediately after the last date of exhibition of such positive print hereunder. [fol. 3503] 7. During the life of this agreement the Distributor agrees not to permit the exhibition of any of the photoplays above specified in violation of any protection or "run" clause contained in this contract.

8. It is agreed that the exhibition of said photoplays on the dates above specified or determined as hereinafter provided and payment therefor as above provided shall be of the essence of this agreement; and the Distributor shall not be obliged to deliver any additional photoplays to the Exhibitor hereunder while the Exhibitor shall be in default in exhibiting or paying for any photoplays hereunder.

9. The Distributor shall give not less than two weeks, nor more than four weeks, notice to the Exhibitor of an assignment of play dates, as to each photoplay, the play date for which is not specified in this contract. The Exhibitor shall play and pay for said photoplay, unless within one week from the date of said notice, it advises the Distributor of its inability to play on the dates assigned and with such written advice, selects play dates not earlier than the dates originally selected by the Distributor and not later than six weeks distant from the date of the original notice from the Distributor, it being agreed, however, that in the case of a contract for a series of feature photoplays, five reels or more in length, and featuring a particular star or director, the Exhibitor shall not be required to exhibit more than one photoplay of such series every five weeks.

10. None of the photoplays specified in this agreement are re-issues from old negatives or are old negatives, renamed, except the following:

11. If prevented by censorship, fire or similar damage by the elements, riots, insurrections, acts of God or the public enemy, or the order of any Court of competent jurisdiction which shall delay the performance of this contract by the [fol. 3504] Exhibitor, the latter shall not be liable for damages of any kind, nature or description, but the Exhibitor shall give prompt notice to the Distributor of his inability to perform said contract and the reason for the delay.

12. This contract shall not become binding until accepted in writing by an officer of the Distributor. Deposit of check

given at time of application shall not be deemed an acceptance of same.

Unless notice of such acceptance is sent to the Exhibitor by mail or telegraph within fifteen days East of the Mississippi or within twenty-five days West of the Mississippi from the date of the signing of this application by the Exhibitor, this application shall be deemed withdrawn.

13. This contract shall not be assigned by either party without the written acceptance of the assignee and the written consent of the other party, provided, that if the Exhibitor sells or disposes of his interest in the theatre above specified, he may assign this contract to the purchaser of such interest without the written consent of the Distributor and such assignment shall become effective upon the written acceptance thereof by the assignee, such assignment, however, not to relieve the Exhibitor of his liability hereunder. Privilege of assignment without the consent of the Distributor shall not apply to contracts not to be performed within one year.

14. The Exhibitor agrees to run photoplays as delivered without alteration, subject to local censorship requirements necessitating any change. The Exhibitor also agrees to advertise and announce each photoplay as a "—— Picture." In all newspaper advertising and publicity, the Exhibitor shall adhere to the form of announcement con- [fol. 3505] tained in the advertising matter furnished by the Distributor.

15. The exhibitor agrees to pay any taxes imposed or based upon the sums payable under the contract or upon the footage or value of positive prints.

16. In case of percentage bookings the distributor shall have the privilege of inspecting the Exhibitor's books and records relating to the picture involved at all reasonable times and shall have access to the exhibitor's box office receipts.

17. The Exhibitor agrees to charge an actual minimum admission of —— cents.

18. No promises or representations have been made by either party to the other except as set forth in this agreement.

19. A signed copy of the application shall be left with the Exhibitor at the time of signing the contract.

20. All advertising matter must be leased through the Distributor and must not be sold or given away by the Exhibitor.

21. The Exhibitor agrees to pay the Distributor on execution hereof the sum of — Dollars as payment on account of the sums last payable hereunder, but the Distributor may at any time apply the whole or any part of said sum upon any claim which the Distributor may have against the Exhibitor, notifying the Exhibitor of such application.

22. The parties hereto agree to submit to the Arbitration Committee of the nearest local Film Board of Trade for determination, all legal claims hereunder, and agree [fol. 3506] to be bound by the determination of said Board. In the event that the Exhibitor shall fail or refuse to consent to the submission of any claim or abide by any determination of any local Film Board of Trade with reference to any film service contract whether with this or any other Distributor, member of such local Film Board of Trade, the Distributor shall have the right to cancel this contract; and in the event that the Distributor shall fail or refuse to submit any claim or controversy between itself and the Exhibitor party to this contract, or abide by the determination of any local Film Board of Trade with reference to such claim or controversy, the Exhibitor shall have the right to cancel all existing contracts between said Exhibitor and Distributor.

23. Optional Clause. Where the contract designates certain photoplays by title, it shall be non-cancellable as to such photoplays. Where it embraces a series of photoplays not designated by title, the portion of the contract relating to such series may be cancelled by either party after two photoplays of each series have been played or paid for, by notice in writing within ten days after playing the second of said photoplays, such cancellation to take effect after additional photoplays shall have been played or paid for.

[fol. 3507] GOVERNMENT'S EXHIBIT 42

October 18th, 1926.

Mr. Will H. Hays, President, Motion Picture Producers and Distributors of America, 569 Fifth Avenue, New York, N. Y.

DEAR MR. HAYS: At a conference held at Battle Creek, Michigan, Monday, October 18th, 1926, the following states were represented either by their president or by members of their arbitration board or both; Ohio, Minnesota, North and South Dakota, Indiana, Illinois, Wisconsin, Texas, and Michigan.

The purpose of this conference was to consider the fact that Arbitration is each of these states individually as well as in the other film centers has not been working in a satisfactory manner due to the fact that the distributor members of the various boards do not seem to understand their duties and the purposes of their position.

This we believe has been largely brought about, especially during the past six months, by various communications emanate-- from your office addressed to the Film Board of Trade members or the Film Board of Trade secretaries *par*ctically instructing distributor members on Arbitration Boards as to how they should act, how they should decide and what they could and could not do in the consideration of cases that came before them.

It seems to us and we feel sure that you will agree that such methods nullify the spirit of Arbitration and such action is equivelent to some higher authority instructing a court of last resort.

We appreciate that it is impossible to write a contract that will cover every contingency that might arise under that instrument, and therefore we believe it imperative that a letter from your office be sent to every Film Board of Trade to the effect that every decision should be based upon justice, equity and facts using the contract and its provisions as a basis. We think such a letter necessary to counteract the pernicious effect of other communications which the Film Board of Trade have recieved heretofore and that the above procedure be brought to the seventh arbitrator, when called, at all times that he may know

that the entire procedure and purpose of Arbitration is to render a decision based on common equity and justice.

We feel also that it is very necessary that distributor members of Arbitration boards should be free from all criticism from your office, their superiors or fellow members covering any decision which their conscience and good judgment may dictate.

[fol. 3508] With three members of each board paid employees of a few closely knit distributing companies whose problems are identical you will readily understand that it is very difficult even under the best of conditions for them to give an unbiased decision. Such a decision becomes impossible when pressure or criticism is brought to bear upon them from their own ranks.

We all believe that the principle of arbitration is too big and has accomplished too much for this industry to permit such practices to nullify the good work already accomplished and the future benefits to be derived.

Such notice to the Film Board of Trade should set forth clearly the rights and p-ivileges of the board, calling to their attention that if the result of arbitration is not to render justice in the particular case in question it has failed in its purpose.

We would appreciate a prompt reply addressed to our chairman Mr. W. A. Steffes, Hotel Nicollet, Minneapolis, Minnesota, who in turn will communicate with the various states represented at this conference.

Wm. A. Steffes; P. J. Wood, M. P. T. O. of Ohio; H. A. Cole, Texas; John E. Niebes, Detroit; Henry A. Stack, Wis.; (name illegible), Ind.; A. C. Zaring, Ind.; Madison Wahl, Ind.; Sidney H. Breiz, Ill.; James C. Ritter; C. B. Trotter, Ind.; Ludwig Siegel, Ill.; W. A. Cameron, Minnesota; H. M. Richey, Michigan; E. D. "Jack" Miller, Ill.; F. G. Schaefer, Ill.; Aaron Saperstein, Ill.; Max Toroller, Minnesota.

[fol. 3509] GOVERNMENT EXHIBIT 43

Motion Picture Producers & Distributors of America, Inc.,
469 Fifth Avenue, New York City

Will H. Hays, President. Carl E. Milliken, Secretary

October 25, 1926.

Mr. William A. Steffes, Motion Picture Theatre Owners of the Northwest, New Nicollet Hotel, Minneapolis, Minn.

DEAR MR. STEFFES: The letter from yourself and the others mailed October eighteenth from Battle Creek, Michigan, is received, and I note your suggestion that reply be addressed to you as chairman so that you may in turn advise the other gentlemen the nature of my reply.

I appreciate the interest of yourself and all of the others in the whole matter of arbitration. There is nothing more important for the future progress of all branches of the industry than that the integrity of the arbitration boards and the effectiveness of our arbitration be preserved and the principle developed to its complete maximum usefulness. I thoroughly approve the direction of your suggestion that "the principle of arbitration is too big and has acomplished too much for this industry" to permit anything to develop which hampers the good work.

I am thoroughly sympathetic, of course, to the suggestion that everyone should keep "hands off" of our various Boards of Arbitration. No one should ever suggest to any member of an Arbitration Board, whether he be an exhibitor or a distributor member, how any case should be decided or what the Arbitration Board or any individual member should do in any case. This is so obviously right that you must know, of course, how thoroughly we agree with it.

I note your particular objection has to do with certain letters which you say emanate from this office. I know, of course, that you do not mean to suggest that they come from this office, but rather from the home office of the Film Boards of Trade as I am sure you know that no letters are sent by this office covering any such subject matters to the Film Boards of Trade, or their secretaries, or to Boards of Arbitration. It might be fair to the home office of the Film

Boards of Trade if I suggested that copies of any such objectionable letters be forwarded to me so I might take the matter up with them, and if you have easily accessible any such objectionable letters, I would be glad to have them.

However, if you do not have such letters easily accessible even that action is not necessary because I am pleased to take the action which I propose to take regardless of whether or not any letters have been written by the home office of the Film Boards of Trade which are objectionable as you indicate. I know it is their purpose, if they have [fol. 3510] written any letters, simply to direct the Film Boards of Trade and the Arbitration Boards to be careful to keep within the rules and do nothing which was not "based on common equity and justice" as you suggest, and also entirely within the law.

It is so thoroughly right, as you say, that "distributor members of Arbitration Boards should be free from all criticism" in order that they may make the decisions which "their consciences and good judgment may dictate" that I do not ask you for any details but am requesting Mr. Pettijohn, General Counsel of the Film Boards of Trade, to address a communication of the nature you suggest to each of the thirty-two Film Boards of Trade immediately. The only suggestion which the Film Boards or the Arbitration Boards should have from the home office of the Film Boards of Trade is that they follow the rules of arbitration, that they base their decisions on equity and justice, that they arbitrate, of course, only those questions which are arbitrable and that they keep strictly and always within the law. I know it is the purpose of the home office of the Film Boards of Trade to suggest this and no further than this, and I know that the friends of arbitration all over the country—exhibitors, producers and distributors—are all interested in the same direction.

I again assure you of my appreciation of your interest in the whole matter and that I will do everything I can do always to use the good offices of this Association toward the further development of our arbitration system to the fullest possible degree of constructive usefulness to both exhibitor and distributor.

With kindest personal regards, I am

Sincerely yours, Will H. Hays.

[fol. 3511] GOVERNMENT EXHIBIT 44

Motion Picture Theatre Owners of the Northwest, Comprised of the States of Minnesota, North and South Dakota

Headquarters: New Nicollet Hotel, Minneapolis, Minnesota. Phone: Atlantic 6853

Officers: Wm. A. Steffes, President; Otto N. Raths, Vice-President; A. A. Kaplan, Secretary; H. A. Dryer, Treasurer

M. P. P. D. A., Nov. 31, 1926

Board of Directors: Harvey Buchanan, Superior, Wis.; R. V. Baasen, Minot, N. D.; H. J. Ludeke, St. Peter, Minn.; B. J. Benfield, Morris, Minn.; W. A. Cameron, St. Paul, Minn.; W. D. Gowan, Ortonville, Minn.; S. J. Blackmore, Duluth, Minn.; Oliver Rowe, St. Paul, Minn.; Theo. L. Hays, Minneapolis, Minn.; Roy McMinn, Superior, Wis.; L. R. Stacy, Mobridge, S. D.; H. A. Brummand, Thief River Falls, Minn.; H. B. Smoots, Little Falls, Minn.; John Piller, Valley City, N. D.

U. S. District Court, S. D. of N. Y. Filed Oct. 15, 1929.

October 29th, 1926.

Honorable Will H. Hays, President, Motion Picture Producers and Distributors of America, Inc., 469 Fifth Avenue, New York, N. Y.

DEAR GENERAL: Your letter of the 25th received. Copies have been made and forwarded to the respective states. I am awaiting their reply and opinion and just as soon as these are compiled, I will forward contents of same to you.

Frankly speaking, General, it looks to me like something has got to be done with the rules of arbitration. The contract itself is not so bad, but regardless of how much we try to impress upon the distributor members of the arbitration board that equity and justice should at all times be considered, they still insist on arbitrating strictly according to the rules and the written contract. Of course, if this is adhered to it makes the arbitration board nothing more

or less than an enforcing or enterpreting contract committee.

I noted with a great deal of interest United Artists letter to Mr. Hess relative to my own case, also Mr. Hess' letter to the Secretary of the Arbitration Board. You know, General, it is mighty easy for United Artists to set forth their side of the case and create the impression that the Arbitration Board was all wrong in rendering their decision, but I am going to give you the facts and, if you tell me that they were still wrong in rendering the decision, I know nothing about arbitration.

I phoned Mr. Martin, United Artists' manager Friday August the 27th, asking him what he wanted for the Son of Sheik at the Colonial theatre, Watertown, South Dakota and for the same picture at the Logan theatre, Minneapolis. He informed me he would phone me back in a few minutes, which he promptly did and stated he wanted $150.00 for the Son of Sheik in Watertown and $100.00 in Minneapolis. I told him to make out the contracts and send them over. In about a half hour the contracts came over, I signed them both. However, on the Logan theatre, Minneapolis contract he had in the protection schedule marked "the usual F. & R. protection to follow F. & R. theatres." I did not quite understand this, so when the young lady came over to get the contracts I told her that they were signed but before returning to United Artists I wanted to talk to Mr. Martin and have this protection clause explained.

I endeavored to get in touch with Mr. Martin that afternoon, but was unsuccessful. About 4 o'clock that afternoon I left town.

[fol. 3512] At six o'clock my secretary reached me by phone and informed me Mr. Martin had called and for me to get in communication with him that night at the hotel. I placed a call at ten thirty that night but was unsuccessful in reaching him. However, the following morning about ten o'clock I got in telephone communication with Mr. Martin and he stated he had made a mistake when he sold me Son of Sheik for the Logan theatre as it had already been sold to the opposition theatre. I stated that was perfectly all right but how about Watertown? His reply was Watertown is okeh, go ahead and advertise it.

That same night Son of Sheik was duly advertised at the Colonial theatre at Watertown, also the following day, which was Sunday. On Monday morning about ten thirty, I received a long distance telephone call from my manager at Watertown, South Dakota telling me the opposition theatre in Watertown was also advertising the Son of Sheik. On Tuesday morning I received from United Artists a wire stating "your contract Son of Sheik Watertown South Dakota rejected by New York."

Now, the point I am trying to bring out, General, is that I did have an approved contract on Son of Sheik when Mr. Martin, United Artists manager told me over the phone Saturday morning that the Watertown contract was okeh. It was on Saturday night when the salesman accepted a contract from the opposition theatre for the Son of Sheik and naturally he started immediately advertising the picture before he had a confirmation.

If you care to, you can substantiate statements by having United Artists show you the records on this case. You will see that my contract was telegraphed to United Artists on Friday and that United Artists home office wired approval of my contract the following day, prior to the time I had the phone conversation with Mr. Martin. Therefore, Mr. Martin was absolutely in his right when he told me that the contract was okeh. At the time he told me it was okeh I set definite play dates.

It is true that the contract itself says that before a contract is approved, we must either receive the approved copy or a written notice. That, in my opinion, is a technical point and should not enter the question whatever inasmuch as we can, and did, prove to the Arbitration Board that New York did approve my contract and that Mr. Martin had a perfect right to notify me over the phone that same was approved, therefore, establishing I did have a contract, nothwithstanding what United Artists may say at this time.

United Artists has a form that they attach to contracts when they send to New York and if you will have United Artists show you the form which was attached to my contract when it was sent into New York, you will see at the top left hand part of the page, it is marked "approved by wire." Therefore, my contract was approved in New

York and I received notice of approval over the phone on Saturday. On Monday morning or Sunday night, either T. Y. Henry the district manager, or Mr. Martin, wired New York asking them to wire disapproval or rejection of my contract.

Now, bear in mind this is after I received a telephone notice that it was approved.

[fol. 3513] These facts were all brought out and substantiated as evidence before the Arbitration Board and I contend that the Arbitration Board had a perfect right to arbitrate this case and to listen to the evidence and render a decision.

Some of the crooked tactics that are applied and adopted by the manager and district manager of United Artists in this territory is deplorable. Last week this same man attempted to sell the Son of Sheik to the New Arion Theatre, a theatre with one thousand seating capacity and charging an admission of 25c. He quoted them a price, which they thought was exhorbitant and rejected the proposition. The following day, or thereabouts, this same Martin went to a theatre which is in direct opposition namely, the Ritz, to the Arion theatre, and told the manager or the owner of the theatre that he could sell him Son of Sheik first run in Northeast Minneapolis, inasmuch as the New Arion did not buy the picture. He quoted this party a price of $200.00. The party signed the contract for this amount of money. However, he failed to put in his contract that it was to be first run in Northeast Minneapolis. Immediately after Martin got this gentleman's signature to this contract, he sells the same picture to the New Arion theatre for $125.00 and tells the New Arion theatre that they can play it day and date with the Ritz.

Now, it is true, there is nothing in the contract that calls for first run but there is a great deal of equity and justice that shall enter into this matter and common horse sense will tell any man that the Ritz theatre with seven hundred seating capacity would not pay $200.00 for a picture and knowingly allow an opposition theatre with one thousand seating capacity to play the same picture day and date, when the purchase price was $125.00.

Now, if we are going to be held strictly to rules of arbitration and the written contract, how are we going to bring

about justice for the theatre owner who paid the $200.00 and expecting, and rightfully so, the first run on this picture?

We again had another blowup in the Arbitration board yesterday when two of our members walked out for the reason that the producer members of the board reversed themselves on a decision that they rendered thirty days ago. I objected to the board considering the reversal of their decision on the grounds that one of the men who voted on the original decision was not present yesterday, but the distributor members forced the issue and were successful in having one of our men vote with them, making the vote four to two. In other words, the two exhibitor members who had a right to vote on this case yesterday voted in the negative, the third man, or the one who voted with the distributors, and in my opinion had no right to vote as he was not present when the first vote was taken, neither was he on the board that day. I am not questioning the board's right of reversing themselves, but I do question the right of alternate men, or men who were not on the original case, — reverse someone else's vote.

My personal opinion is, General, that the rules of arbitration should be modified or changed so a notice from the Film Boards of Trade home office will go to the distributor members advising them that at all times equity and justice must be considered first, and not the strict written terms of the contract, but to use the contract as a basis for arbitration and that the only things in the contract that shall not be changed should be price, protection, number of days and playing arrangement.

[fol. 3513½] There is also a clause in the contract that says upon failure of the producer and distributor to get print to an office, that they are not responsible, etc. I believe it is the second paragraph, *cal*use 19.

We had a case yesterday, where a theatre owner had a picture booked for September 13th and 14th. The picture was booked to him on August 10th, advertising was sold to him, advertising was put out, newspaper advertisements appeared and on the night of September the 10th, the company wired him they were unable to ship him the picture, thereby giving him two days notice.

In going into the case we find the schedule of releases this company had from the home office, showed that the picture

was scheduled to arrive in their exchange on September the 20th. In other words, they booked it to the exhibitor almost a week before the picture was to be shipped to their exchange by their home office.

The theatre owner of necessity had to put on a mediocre picture without any advertising and suffered substantial damages. However the exchange members of the board say there was no responsibility on the part of the distributor as the contract specifically stated so. My contention is that good common business judgment should have been used rather than the strict terms of the contract. They all admitted, no doubt, the theatre owner did suffer some damages, but that the contract stated that they were not responsible and, therefore, refused to allow the exhibitor any damages for his loss.

I am just giving you a few of the concrete cases.

You say in your letter if we have anything that has emanated from the home office of the Film Boards of Trade, to forward them to you. I do not happen to have any of these letters, but I do know that letters have been sent by Mr. Hess to the local Film Board of Trade, and I do know that on several occasions while the arbitration board was considering a case, some distributor member of that board has turned around to the secretary and said "what did Hess say about this?"

I also know positively beyond a question of a doubt that the Film Board of Trade in the city of Minneapolis is discussing and rehearsing cases at their board meetings each and every Monday.

For instance we had a meeting yesterday and everything that happened in that meeting yesterday will be discussed in the Film Board meeting Monday and if the distributors did not vote the way some of the members think, these men will be put on the pan and criticised.

Now, these are facts and just as long as they exist, we cannot secure justice in the arbitration board under the present set up. I know that about thirty days ago I criticised the Film Board of Trade for levying penalties on theatre owners who had not complied with decisions until after they came back and reported them to the board. My contention was the only one who had a right to place these penalties and the amount, was the arbitration board itself.

This discussion lasted from ten in the morning until four in the afternoon. Finally, one of the managers voted with the three exhibitor members, thereby making the vote four to two, that all cases should be referred back to the arbitration board.

[fol. 3514] On the following Monday this distributor member was put on the pan for over two hours by his fellow exchangemen and was told that he was a chump for voting the way he did, as it just gave the theatre owners another advantage.

I am afraid, General, as long as these things are going to continue to exist, there is going to be nothing but discord and friction.

The theatre owners in this territory have never as yet discussed a case prior to or after an arbitration meeting. They go into the meeting with an open unbiased mind, but if a distributor member does use his own judgment and votes according to his own conscience and dictates, he gets hell the following Monday from the Film Board of Trade. Regards,

Yours very truly, Motion Picture Theatre Owners of the Northwest. W. A. Steffes, as President. W. A. Steffes.

WAS:L.

[fol. 3515] Government Exhibit 45—U. S. District Court S. D. of N. Y. Filed Oct. 15, 1929

Motion Picture Producers & Distributors of America, Inc., 522 Fifth Avenue, New York City

Will H. Hays, President; Courtland Smith, Secretary

August 16, 1924.

Mr. William A. Steffes, Motion Picture Theatre Owners, 324 Kasota Building, Minneapolis, Minn.

Dear Mr. Steffes: I am interested in the postponement of the Allied State Organizations meeting from this month to next. Following our talk in Chicago I ascertained immediately upon my return the exact situation, from dis-

cussions here, relative to some changes in the standard clauses of contract.

I find the situation is such that it is desirable, in my opinion, to have a permanent standing committee to study this continually and I was going to suggest at your meeting on August eighteenth that you designate some on representing the Allied State Organizations who could sit with us on this committee. I want the committee to consist of a representative from that organization, Charles O'Reilly, representing the New York State association who is constructive and earnest always in his work in this connection, and Mr. Pettijohn.

In view of the delayed meeting at Kansas City would it not be possible for the Allied association to designate some one right away with whom we could take up the matter? I think with the committee consisting of such a person as you would name, Mr. O'Reilly and Mr. Pettijohn we can get right down to the most equitable point quickly. Let me hear from you in this regard.

With best wishes always, I am,

Sincerely yours, Will H. Hays.

hmh.

[fol. 3516] GOVERNMENT'S EXHIBIT 46

Minneapolis, Minn., January 6th, 1927.

To the Joint Board of Arbitration, Minneapolis Zone, Minneapolis, Minnesota.

GENTLEMEN: A meeting was held today at the Nicollet Hotel in the city of Minneapolis, Minnesota. This meeting was attended by the Executive Committee of the M. P. T. O. of the N. W., Board of Directors of the Minneapolis Film Board of Trade and Mr. C. C. Pettijohn of New York, General Counsel of the Film Boards of Trade.

There has been a "meeting of minds" upon the part of the exhibitors and distributors in this zone on the subject of Arbitration and the following conclusions and understandings have been arrived at:

(1) We all favor the principle of Arbitration and believe that properly administered it is of inestimable value to our industry.

(2) It can only be of such value when the six men comprising the Arbitration Board sit as judges and not as partisans. Any member of any Arbitration Board who serves as an arbitrator with any other purpose than to hear the evidence and properly and fairly determine the questions involved, is both mentally and morally unfit to so serve.

(3) Motion pictures are leased under the terms of a written contract entered into between the buyer and the seller, or the lessor and lessee. Both parties are obligated to know what is in that contract and the adoption of a Uniform Exhibition Contract has gone a long way to accomplish such purpose. Both parties to any exhibition contract are obligated to see to it for themselves that any special agreements not covered by Standard Clauses are plainly embodied and set out in the contract.

(4) It is unanimously conceded that theatre owners should have the right to rely upon statements which are made to them at the time when sales negotiations are in progress and contracts made.

(5) We realize that every misunderstanding that happens cannot be covered by specific terms in the contract and that instances may arise, and have arisen, where injustices have been done or where unfor-seen circumstances have arisen resulting in hardships that have not been, and in some instances, possibly could not have been anticipated. We agree that this is the point at which equitable — should be granted.

[fol. 3517] (6) Without citing specific cases, we believe, and we agree, that where a wrong has been done it should be righted, where an unfair advantage has been taken of either party by the other, that such unfair advantage should be removed.

(7) We believe that practically all such misunderstandings can be avoided and such situations corrected as they come up, if the parties to the controversy can be brought together and, irrespective of legal technicalities, brought

to an agreement upon what is fair and just and right under the circumstances.

(8) We realize that such situations are the exception and not the general rule, but they do happen and probably will happen. It is in such cases that equitable relief should be afforded before a seventh arbitrator is selected and in some instances this is possible before the case is formally submitted to Arbitration at all.

(9) We do not suggest or expect that contracts shall not be lived up to by both parties and the sanctity of contracts respected at all times. We do, however, urge, expect and the parties here assembled desire and will devote their best efforts to provide for any such emergencies not covered by the technical terms of contracts all to the end that Arbitration shall mean not only the enforcement of contracts, but fair dealing, the righting of any wrongs or the correction of such unfortunate or unfor-seen situations. We believe that such an understanding of Arbitration not only defines the letter of Arbitration but the spirit of Arbitration as well.

(10) It is understood and conceded by all that the Uniform Exhibition Contract provides that before either party will resort to the courts for relief, that he will first submit any dispute arising under the terms of the contract for Arbitration. This does not deprive either party, however, from resorting to the courts after such decision is made if he sees fit to do so.

We respectfully suggest to this and to future Minneapolis Arbitration Boards that in a case a seventh arbitrator becomes necessary in any case that he be furnished with a copy of this memo. which we feel plainly and accurately states both the spirit and letter of Arbitration as it is understood in the Minneapolis territory by both exhibitors and distributors.

Harper Brout, Chairman of Arbitration Committee, Minneapolis Film Board of Trade; C. J. Pettyjohn, General Counsel Film Board of Trade. W. A. Steffes, President M. P. T. O. of N. W. Theo. L. Hayes, Vice Chairman Executive Committee, M. P. T. O. of N. W.

[fol. 3518] GOVERNMENT'S EXHIBIT 47

Memorandum of Meeting of the Advisory Committee of Exhibitors Held at 469 Fifth Avenue, New York, on May 11, 1927

Present: Mr. Rogers, Fox Film; Mr. Ralph Kohn, Famous-Players; Mr. Campe, Famous-Players; Mr. Ebenstein, Warner Bros.; Mr. Braunberg, Metro; Mr. Catlin, Educational; Mr. Kramer, Universal; Mr. Schimmel, Universal; Mr. E. C. Grainger, Fox Film (representing Distributors).

Mr. Steffes, Minneapolis; Mr. Biechele, Kansas City; Mr. O'Reilly, New York (Members of the Advisory Committee of Exhibitors).

Mr. Zuckerman and Mr. Raves, of the New York Theatre Owners Chamber of Commerce, representing the Exhibitors.

Mr. Pettijohn, Mr. New, Mr. Hess (representing the Motion Picture Producers & Distributors of America, Inc.).

Standing Order Clause

Famous Players agreed that the sixty (60) day notice provided for in its standing order clause would be changed to a thirty (30) day notice.

[fol. 3519] It was agreed that all standing order clauses shall provide that the distributor give written notice to the exhibitor of the date of the expiration of the contract at least forty-five (45) days prior to such date, and that all clauses now printed not so providing be deemed amended to such effect, and that all standing order clauses, excepting those in use by distributors during the 1926-27 season, shall apply so far as the exhibitor is concerned only to contracts expiring after January 1, 1927. (See Form Attached, page 5.)

Clause in Fox contract now designated as Ninth-A, to be amended to read as follows:

"No salesman, agent, or other representative of the Distributor is authorized to make any additions to or changes in the memorandum copy of this application left with the Exhibitor that are not likewise made upon the Home Office copy thereof. Upon the acceptance of this ap-

plication the Distributor shall send, by registered mail, to the exhibitor an approved copy thereof, and immediately upon its receipt the Exhibitor shall compare the same with the memorandum copy left with the Exhibitor. If there are any discrepancies in the terms or conditions of the memorandum copy left with the exhibitor at the time this application was signed by the exhibitor and the terms or conditions of the approved copy thereof sent to the exhibitor by the distributor, the exhibitor shall have the right to cancel this contract by written notice to such effect sent by registered mail to the distributor at its Home Office —— New York City, within twenty-one (21) days from the date of the receipt of the approved copy, provided that in such notice the Exhibitor shall specify all such discrepancies. [fol. 3520] Upon the failure of the distributor to receive notice as aforesaid, such approved copy shall be deemed by the parties hereto to be in all respects in conformity with said memorandum copy, and the Exhibitor shall be estopped from at any time making any claims of discrepancies between such copies."

The following distributors announced that no additional clauses would be incorporated in their 1927-28 contract forms: Educational, Warner Bros., Universal.

Metro-Goldwyn-Mayer Distributing Corp.

The Metro-Goldwyn News Reel form will contain the Standing Order Clause, and its form for percentage contracts a liquidated damage clause; its form for comedies, a clause to the effect that if less than the number of comedies contracted for are not generally released within a specified period, contract to be deemed only for the actual number generally released in such period. Special provisions for Big Parade and Ben Hur.

[fol. 3521] Famous Players

An additional clause in the case of the sale of pictures released during a specified period not sold by title used only in its so-called forms for Yearly Franchise Contracts—not to apply to pictures sold by titles.

The next to the last clause extending the time for exhibition and delivery of pictures not exhibited and delivery within the period specified in Article Second of the Standard Exhibition Contract was considered a change in the Standard Exhibition Contract form.

[fol. 3522] Form of Standing Order Clause

"In case this contract shall be for a series of motion picture subjects to be released regularly at semi-weekly, weekly, bi-weekly, or monthly intervals, and the letters 'S.O.' (which shall be construed as 'Standing Order') shall be printed, stamped or written in the schedule on the face of this contract, this contract shall run as to each such series for a period of one year commencing with the starting date of the first picture of such series, and shall automatically renew itself and continue in force for a further period of one year, and from year to year thereafter, provided that not less than forty-five (45) days prior to the expiration date of each such year period the distributor shall have sent to the exhibitor written notice of each such expiration date, unless and until terminated by either party by notice in writing given to the other at least thirty (30) days prior to the expiration of the first year, or thirty (30) days prior to the expiration of any succeeding year."

[fol. 3523] Government Exhibit 48

Motion Picture Producers & Distributors of America, Inc.,
522 Fifth Avenue, New York City

Will H. Hays, President

Telephone: Vanderbilt 2110

June 21, 1922.

Mr. Sidney S. Cohen, President, Member of the National Executive Committee, Motion Picture Theatre Owners of America, 1482 Broadway, New York, N. Y.

Gentlemen: I take pleasure in transmitting herewith three copies of a memorandum embodying the principles

that have been suggested by our Committee, subject to approval of counsel, as a basis of a uniform contract between distributors and exhibitors.

I hope you will agree with me that this draft marks a decided advance in eliminating, as far as possible at this time, consistent with sound business and the natural right of a manufacturer to exert a reasonable control over his product, various grievances both of the distributors and exhibitors.

The present draft eliminates all penalties on both sides. It sets up what I hope will prove to be a workable and fair method of selecting play dates which will cure at the same time the evils both of over-buying and over-selling.

It provides for the delivery of all pictures released by a distributor during the period of the contract, which we hope will reach the complaint that it has been the practice occasionally to withhold a picture intended to be delivered when the contract was written, but which by reason of superior merit was subsequently withheld because it was believed it would command a higher price.

It cuts down the period of payment of license fees from seven to three days in advance of shipment of the film.

It provides for a uniform payment for film lost or destroyed.

It provides in every case of a re-issue or a re-named negative, that the photoplay should be specifically enumerated in the contract as a re-issue.

To cure the complaint that signed applications of exhibitors are not acted upon with reasonable promptness, we propose to provide that unless a written acceptance is mailed within fifteen days in cases east of the Mississippi and within twenty-five days from the date of the application in cases west of the Mississippi, the application by the exhibitor shall be deemed withdrawn.

[fol. 3524] We have consented to the assignment of contracts in the case of a sale of a theatre, under suitable regulations, and, finally we propose with your cooperation to promulgate a mutually agreeable code of ethics, a draft of which is enclosed, in which we announce and declare our views as to certain practices to be observed by both parties, which do not properly belong in a formal contract and tend to unduly extend it.

I should like very much to have your written comments, if any, by noon of Thursday and I should like the joint committee which met last Friday afternoon in this office to convene again on Friday at eleven A. M. for what I hope will be a final conference.

With very kindest regards, I am,

Sincerely yours, Will H. Hays.

hmh.
Enc. 2.

[fol. 3525] Sent to National Officers, Board of Directors, Executive Committee at Large & Executive Committee. October 12, 1922.

Motion Picture Theatre Owners of America

President: Sydney S. Cohen, New York, N. Y.

Vice-Presidents: Glenn Harper, Los Angeles, Calif.; Joseph Mogler, St. Louis, Mo.; C. A. Lick, Ft. Smith, Ark.; Joseph G. Rhode, Kenosha, Wis.

Board of Directors: A. R. Pramer, Omaha, Neb.; W. A. Steffes, Minneapolis, Minn.; G. G. Schmidt, Indianapolis, Ind.; M. E. Comerford, Scranton, Pa.; W. A. True, Hartford, Conn.; W. D. Burford, Aurora, Ill.; Claude Cady, Lansing, Mich.; R. F. Woodhull, Dover, N. J.; E. M. Fay, Providence, R. I.; H. B. Varner, Lexington, N. C.; J. W. McMahan, Cincinnati, Ohio; A. Julian Brylawsky, Washington, D. C.

Executive Committee at Large: L. J. Ditmar, Louisville, Ky.; Harry Davis, Pittsburg, Pa.; Jacob Lourie Boston, Mass.; J. C. Ritter, Detroit, Mich.; C. E. Whitehurst, Baltimore, Md.

Executive Committee: Joseph A. Walsh, Hartford, Conn.; W. S. McLaren, Jackson, Mich.; W. W. Watts, Springfield, Ill.; Fred Seegert, Milwaukee, Wis.; W. W. Whitson, San Diego, Calif.; T. L. Hays, Minneapolis, Minn.; M. Harzberg, Providence, R. I.; Harry Crandall, Washington, D. C.; -. H. Bingham, Indianapolis, Ind.; -. J. Hennessy, Newark, N. J.; R. G. Liggett, Kansas City, Kan.; Charles H. Bean, Franklin, N. H.; Martin G. Smith, Toledo, Ohio; Ralph Talbot, Tulsa, Okla.; Howard

Smith, Buffalo, N. Y.; D. A. Harris, Pittsburg, Pa.; Jake Wells, Richmond, Va.; J. E. Kirk, Omaha, Neb.; C. C. Griffin, Oakland, Calif.; William McPhee, Oldtown, Me.; John A. Schwalm, Hamilton, Ohio; C. H. Burkey, Kansas City, Mo.; O. C. Hauber, Pine Bluff, Ark.; Louis M. Boas, Boston, Mass.; John Manheimer, New York, N. Y.; C. T. Sears, Brookfield, Mo.; G. A. Roberts, Albany, N. Y.; M. C. Kellogg, Lead, S. D.; James A. Estridge, Gastonia, N. C.; Joseph Phillips, Fort Worth, Texas; Thomas Arthur, Mason City, Ia.; C. M. Stringham, Price, Utah; Ray A. Grombacher, Spokane, Wash.; Fred Dolle, Louisville, Ky.

Treasurer: J. T. Collins, Rutherford, N. J.; Recording Secretary, M. Van Praag, Kansas City, Kan.; General Manager, A. J. Moeller

Bryant 2786

132-136 West 43rd Street, New York City

You will recollect that in the Committee's negotiations with the Hays Committee for a more equitable contract, we were unable to iron out our differences on three or four very vital matters, and it was suggested at that time that we could perhaps work to better advantage if we dropped our differences on the contract for the time being and proceeded to the drafting of an arbitration contract and a Code of Ethics.

Following this lead, Messrs. Cadwalader, Wickersham and Taft, have drawn up and submitted to Mr. Hays and his committee the enclosed draft, and I am in turn submitting it for your consideration and reaction. In order that I may pass back to Mr. Hays and his committee the concensus of opinion of our Board of Directors, will you kindly write us your opinion on this proposed Arbitration Clause.

The outstanding differences between the Motion Picture Theatre Owners of America and Mr. Hays' organization still remain unchanged and Mr. Hays advises this morning that these matters would be taken up after the arbitration plan he submits has been disposed of. This, no doubt, will include Mr. Hays' definite reply on the proposal we submitted for an arbitration board with the public repre-

sented. You will recollect receiving a copy of this sending in your approval of our plan.

You will note that the plan as submitted has been printed. This was done by the attorneys for Mr. Hays as a matter of convenience. We have made no agreement whatever regarding the acceptance of the plan as submitted. It is a tentative plan only. Will you kindly read it over carefully and write me at the earliest possible moment your opinion about it.

With kindest personal regards, I remain,

Sincerely yours, —— ——, President.

[fol. 3526] Standard Exhibition Contract

Proposed Arbitration Clause

The parties hereto agree that before either of them shall resort to any court to determine, enforce or protect the legal rights of either hereunder, each will submit to the Board of Arbitration established or recognized by the Film Club or Film Board of Trade in the city wherein is situated the branch office of the Distributor from which the Exhibitor is served, all claims and controversies arising hereunder for determination pursuant to the rules of procedure and practice from time to time adopted by such Board of Arbitration.

The parties hereto further agree to abide by and forthwith comply with any decision and award of such Board of Arbitration in any such arbitration proceeding and agree and consent that any such decision or award shall be enforceable in or by any court of competent jurisdiction pursuant to the laws of such jurisdiction now or hereafter in force; and each party hereto hereby waives the right of trial by jury upon any issue arising under this contract, and agrees to accept as conclusive the findings of fact made by any such Board of Arbitration, and consents to the introduction of such findings in evidence in any judicial proceeding.

In the event that the Exhibitor shall fail or refuse to consent to submit to arbitration any claim or controversy arising under this or any other film service contract providing for arbitration which the Exhibitor may have with any distributor or to abide by and forthwith comply with

any decision of such Board of Arbitration upon any such claim or controversy so submitted, or if the Exhibitor shall be found by such Board of Arbitration in any such proceeding to have been guilty of such a breach of contract as shall in the opinion of such Board of Arbitration justify any distributor in requiring security in dealings with the Exhibitor, the Distributor may, at its option, demand, for its protection and as security for the performance by the Exhibitor of this and all other existing contracts between the parties hereto, payment by the Exhibitor of an additional sum not exceeding $500 and not less than $100, such sum to be retained by the Distributor until the complete performance of all such contracts and then applied, at the option of the Distributor, against any sums finally due or against any damages determined by said Board of Arbitration to be due to the Distributor, the balance, if any, to be returned to the Exhibitor; and in the event of the Exhibitor's failure to pay such additional sum within seven days after demand, the Distributor may at its option by written notice to the Exhibitor suspend service hereunder until said sum shall be paid and or cancel this contract.

In the event that the Distributor shall fail or refuse to consent to the submission to arbitration of any claim or controversy arising under any film service contract which the Distributor may have with the Exhibitor, or to abide [fol. 3527] by and forthwith comply with any decision and award of such Board of Arbitration upon any such claim or controversy so submitted, or if the Distributor shall be found by such Board of Arbitration in any such arbitration proceeding to have been guilty of such a breach of contract as shall in the opinion of such Board of Arbitration justify the Exhibitor in refusing to deal with the Distributor, the Exhibitor may at his option cancel this and any other existing contract between the Exhibitor and the Distributor by mailing notice by registered mail within two (2) weeks after such failure, refusal or finding.

Any such cancellation by either party, however, shall be without prejudice to any other right or remedy which the party so cancelling may have by reason of any such breach of contract by the other party.

The provisions of this contract relating to arbitration shall be construed according to the laws of the State of New York.

The parties hereto agree that every existing contract between the parties hereto shall be and hereby is amended so as to include the foregoing section with the same force and effect as if originally incorporated therein.

[fol. 3528] The Board of Arbitration

I

The Board of Arbitration shall consist of six persons, three of whom shall be managers of local offices of the distributors, called distributors' representatives, and three of whom shall be proprietors or managers of theatres in the city where the Film Board is located, called exhibitors' representatives.

Each of the three distributors' representatives shall be elected by the members of the Film Board of Trade to serve for one year or until his successor is appointed. The three exhibitors' representatives shall be selected and appointed by the local exhibitors' association. In the event there is no local exhibitors' association or if such association fails to appoint, then the President of the Film Board of Trade shall request the President of the Chamber of Commerce of the city in which the Film Board of Trade is located, to select and appoint the three exhibitors' representatives. Failing such selection and appointment then the designation of exhibitors' representatives shall be by the President of the Film Board of Trade. Each of the exhibitors' representatives shall serve for one year or until his successor is appointed.

No member of the Board of Arbitration shall sit in any case or controversy in which he has an interest direct or indirect.

In case of refusal or disqualification by reason of interest or sickness or other reason on the part of a Distributors' representative to serve on the Board of Arbitration, the remaining Distributors' representatives or representative may appoint a substitute for such member; similarly if a vacancy exists in respect of an Exhibitors' representatives or representative, the remaining representatives or representative shall appoint a substitute.

In case of a tie vote the Board of Arbitration shall appoint a seventh arbitrator, and if they are unable to agree

then the President of the Film Board of Trade shall request the President of the Chamber of Commerce of the city in which the Film Board of Trade is located to appoint a seventh arbitrator who shall be neither a distributor nor exhibitor nor interested in the motion picture business. Failing such an appointment the President of the Film Board of Trade shall request the United States District Judge of the District to make such appointment.

II

The Board of Arbitration shall have general power, after a thorough and impartial hearing of any dispute or controversy, to determine such dispute or controversy, to make findings thereon, and to direct what shall be done by either or both parties with respect to the matter in dispute. It shall adopt its own rules of procedure and evidence. These rules shall provide for reasonable notice to the parties of the time and place of the hearing and of the nature of the dispute, and afford the parties an opportunity to be heard in person or by counsel and to submit evidence. The findings, determination and direction of the Board of Arbitration upon such controversy shall be conclusive and binding upon the parties thereto.

[fol. 3529] February 27th, 1923.

Hon. Will H. Hays, President Motion Picture Producers & Distributors of America, 522 Fifth Avenue, New York.

Dear Mr. Hays: This will acknowledge the receipt of your letters of February 7th and 17th, in which you suggest a further conference on the contract form between the Producing and Distributing companies which you represent and the Motion Picture Theatre Owners of America, as represented by our National Officers and Board of Directors.

It is the concensus of our opinion that a contract form already signed by yourself representing certain Producers and Distributors, and even a few theatre owners, widely heralded through the publicity department of your office as a finished proposition, colorfully presented as having been accepted by all parties interested, and to be used at once and made retroactive in the business relations of these Pro-

ducing and Distributing companies and the theatre owners cannot, of course, be logically made the basis for any further conference at this time.

You delivered on Saturday, January 27th, a letter to this office containing twenty copies of the proposed contract and at the same time you asked for a meeting of the committee of our organization on February 2nd at your office. On Monday, January 29th, I delivered a letter to your office requesting eighty additional copies of the contract form to be submitted to members of our Executive Committee, Presidents of the state organizations and leaders in different parts of the Country. These copies were sent to this office on Wednesday, January 31st, and immediately sent out to our leaders as indicated. In the same letter I stated to you that "you will understand how impossible it will be for us to have a meeting with any practical results on Friday of this week as you mention."

[fol. 3530] But on Friday, February 2nd, two days after these drafts were received from you and mailed out, and before this office could possibly get replies and opinions from our organization leaders you held your meeting with members of your organization and a few local exhibitors, none of whom had been present during our negotiations with you for several months previous, and at that meeting on February 2nd you adopted the contract form, of your own draft, and promulgated, advertised and attempted to apply to the theatre owners of the country this contract. After having done this you now ask us to join you in conference to consider the contract above referred to.

Your reasons for acceleration of action, and the sudden and unexpected burst of speed on your part in calling your meeting together two days after you gave us drafts of this contract to be sent out, may be known to you but still remains a mystery to the Theatre Owners and the public at large, unless it seemed advisable to you that this contract, right or wrong, should be adopted on this particular second day of February which was just prior to the breaking of the news to the Theatre Owners and to the public in general of the filing of a petition in bankruptcy against one of the members of your organization, a producer and distributor who was present with you at previous conferences at your office on this proposed contract.

We have most patiently conducted negotiations with you since the 12th day of June, 1922, striving for a more equitable business contract and the elimination of certain abuses existing within the Industry.

While the members of your organization and the members of the producers organizations whom you represent were all in New York City and could be assembled on short notice and without any great inconvenience or sacrifice of time and expense, the situation was quite different with us. The members of our National Board of Directors and Executive Committee came to New York from various parts of the United States at great cost to themselves in time and money, and because of the numerous delays and week-end vacations which members of your organization injected, it was necessary for our members either to stay over in New York and lie idle or return to their several states and reassemble in New York again, as they were asked to do several times.

They did this in a spirit of cooperation and fairness that no stone might be left unturned toward the achievement of the purposes which you set up at the call of this meeting. We gave much time and effort to the matter and although we realized that you personally were the representative of your employers, we did not learn except through our negotiations, that you had no power other than to carry out their instructions. Still we were relying on your repeated assurances that you conceived it to be your duty to be as fair to the theatre owners as to the producers, and that you would [fol. 3531] do your best to prevent a continuance of the unfair business processes of the past. Apparently you were as helpless in this relation as in your other announced intentions.

As I advised you previously, the same course was pursued with your last draft of the proposed contract form as with other communications in this matter, and this contract form as prepared by you was immediately sent to our officers, National Board of Directors and Executive Committee for their consideration. We have received protests from these men against the adoption by our Organization of the contract you submitted on the grounds that it is inequitable and unfair to the Theatre Owner, lacks mutuality and that no provisions for the remedying of the abuses complained

of by the Theatre Owners of the Country for which the conferences were primarily held, have been provided for in the contract or otherwise.

The members of our Committee complain of the violation of your definite promise and agreement made with our Organization that no contract or other statement would be issued from your office until our conferences were entirely concluded and agreements reached on all subjects which would be made a part of the contract, after which a joint statement was to be issued and signed by both sides. The contract phases were still in a fluid state of negotiation and there were several outstanding objections. We advised you in person at our last conference on November 3rd and again by letter on November 13th that "to issue a contract with only a part of our differences adjusted would cause endless confusion and this is particularly true when the most important matters affecting Theatre Owners have not been agreed upon as yet."

The impropriety of your move in promulgating contracts in this way may not indeed be even apparent to you and we hesitate to even believe that its projection was of your own initiative, but prefer to accept the situation as having been forced upon you by your principals.

Through articles in the New York Times and the Chicago Tribune, we were amazed to learn that this so-called "uniform" contract had been adopted and promulgated by you. In the New York Times of February 3rd is the statement "a contract which is expected to eliminate waste in the moving picture industry, result in better pictures and eventually bring about lower admission charges, was signed yesterday by representatives of thirty producers and the Theatre Owners at a meeting in Will H. Hays' office."

This article will do considerable damage and injury to the Theatre Owners because the impression was created that the price of film to the Theatre Owners has been reduced, [fol. 3532] when as a matter of fact since the commencement of our conferences with you, the cost of film to the Theatre Owners has materially increased and this despite the fact that the Theatre Owners have suffered the worst business depression in their history during the past year.

Reduced film prices mean less revenue to the Producers and Distributors you represent, and it is an obvious busi-

ness proposition that they are not paying out the tremendous cost incident to the maintenance of your organization and yourself for the purpose of having you bring about a reduction in their revenue.

The abuses complained of by our National Officers and Executive Committee members, voicing the sentiments of the Theatre Owners of the United States, at our various conferences with you, have not been remedied but instead have become worse. Accessory costs have not been reduced. Despite your statement that unfair nontheatrical competition should be eliminated, the very members of your organization have established special departments to solicit the business of those who are operating nontheatrical centers in unfair and direct competition with Theatre Owners. In most instances, these nontheatrical centers are using drama films supplied by the members of your organization, and this competition with Theatre Owners by institutions paying no taxes and in many cases no government charges, has become very injurious to the theatre owner. Some of the buildings in which these nontheatrical presentations are made are not equipped with safety devices to protect the public, nor were these places built or equipped with that same consideration for public safety as applies to the theatres.

The menace of unfair producer-owned, controlled and operated theatres has been increased by the activities of some of the members of your organization and there has been and is at work within our Industry a subtle and dangerous effort to throttle the independent Producer and Theatre Owner by every possible means to serve the ends of unrestricted and centralized control.

Despite assurances to our Organization and an agreement in writing by a member of your organization regarding the extension of their theatre holdings and agreeing that this practice should be discontinued and that theatres already thus acquired would be disposed of to independent Theatre Owners, they have ruthlessly violated their covenants and agreements with our Organization and have steadily gone on acquiring theatres since you have been connected with them in an executive capacity and, as we believe, with your knowledge and consent. With their control of the film they produce and distribute to theatres they

own or control, and the constant extension of their theatre holdings, they make the position of the independent Producer and independent Theatre Owner more precarious. [fol. 3533] For the many reasons indicated here and because of further objections to the contract form you issued, made by Theatre Owners in New York City, New York State and throughout the Country, further conferences with you at this time cannot be productive of constructive results for our Industry.

These objections emphasize the fact that your contract form offers no protection to the Theatre Owners with regard to the deposit and advance rental money exacted from them by members of your Organization. Now the painful fact confronts Theatre Owners that one Producer-Distributor member of your organization has had a petition in bankruptcy recently filed against him and that thousands of dollars of Theatre Owners' money, exacted by him as deposits and advance payments on film, may be lost. This Producer-Distributor sat at the conference table with you and when we asked to have this deposit money of Theatre Owners safeguarded by law or an agreed trusteeship, you and those associated with you not only refused to do this but insisted that you must retain the right to combat all state laws designed for that purpose and would not agree to any proposal to safeguard theatre owners' money in this connection.

We knew then, and your close association with this since near-bankrupt member of your Organization enabled you to know then, that he was tottering close to failure. We wanted to safeguard the Theatre Owners' deposits thus imperilled.

Under the circumstances there is nothing left for me to do now other than to advise all our members of the history of our negotiations and of the status of the same, warning them of the dangers of the contract which your employers now propose to use.

We expect to demonstrate shortly that there are some Producers and Distributors within the Industry independent of your organization who are sufficiently farsighted to realize that this business cannot be benefited by a continued disregard of the principles of right or wrong, of fair or

unfair dealing with the Theatre Owners, and that they owe to our public and to our Industry a code of practice and a standard as fair and honorable as that used in any other business.

For the present at least, the futility of any additional conferences must be apparent even to you. We thus leave the matter now with confidence that the future will demonstrate the folly of your unfair position and that of your associates. We are determined to protect the interests of the Theatre Owners and are unwilling to be drawn into any agreements which do not represent absolute fair play and a square deal for all.

Sincerely yours, Motion Picture Theatre Owners of America. —— ——, President.

[fol. 3534] Motion Picture Producers & Distributors of America, Inc., 522 Fifth Avenue, New York City

Will H. Hays, President

Telephone: Vanderbilt 2110

March 6, 1923.

Mr. Sydney S. Cohen, Pres. Motion Picture Theatre Owners of Am., 132 W. 43rd. St., New York City.

My Dear Mr. Cohen: Your letter dated February 27th was delivered by messenger on the evening of the 28th and I was glad, of course, to hear from you in reply to our telephone talks of January 25th and 27th and my several letters, all in relation to further joint efforts in connection with standard clauses of contract.

From the standpoint of the real welfare of the whole industry there can be no possible service in entering into an argument with you as to motives or purposes, the sequence of events, or the fact that no statements whatever have been issued by this office as to any results of the consultations in connection with the contract, or the merits of the changes therein, etc.; and most certainly I shall not engage in any such argument.

The facts are, of course, that there has been difficulty in negotiating successfully amid all the cross currents, and

we are not unmindful of the fact that it has been pioneering and rather contrary to the custom in other industries for the lessors of a product like this to try actually to work out with the lessees a form of contract to be used generally. But the facts are, also, that real progress has been made toward a more equitable contract, all of the tentative changes having been agreed to by two of the Exhibitors' groups and four-fifths of the changes agreed to by your own group, some of such changes being more favorable to the Exhibitors than your suggestions. You have well understood, too, of course, that it has been the purpose of all to continue our efforts as to the points not believed entirely satisfactory and as we go along try to work out, as fast as possible, a complete mutual satisfaction based on a complete mutual justice. This is the really constructive way and in this program I had hoped you would continue to cooperate with the others.

For the time and attention which you and those of your Board who have helped have given to the whole matter, I am grateful, and be assured that we will be glad to have any further suggestions.

With kindest personal regards, I am,

Sincerely yours, Will H. Hays.

hmh.

[fol. 3535] Copy of Report of Conferences With Will H. Hays Relative to Uniform Contract Submitted by Board of Directors of Motion Picture Theatre Owners of America at Annual Convention, Chicago, May 22, 1923, and Unanimously Adopted

Mr. President, Delegates to the Convention, and Fellow Exhibitors: I have been requested as a member of the committee which carried on negotiations with the Motion Picture Producers and Distributors of America, Inc. relative to the adoption of a uniform and equitable exhibition contract, to present for your consideration a report covering those negotiations.

In accordance with the instructions given to your National President and members of the Board of Directors at the Washington Convention, a conference was held on

June 12, 1922 at the Biltmore Hotel, with Mr. Will H. Hays and a number of the members of the Motion Picture Producers and Distributors of America.

At this meeting the following sub-committees were appointed to draft a uniform and equitable contract. Mr. Kent of the Famous Players-Lasky Corporation, Mr. White of the Fox Film Company, and Mr. Kirchwey of the Select Pictures Corporation, representing the Producers and Distributors and Mr. W. A. True of Hartford, Conn., Mr. W. A. Steffes of Minneapolis, Minn., and W. D. Burford of Aurora, Ill., representing the Theatre Owners. This committee was instructed to prepare a tentative draft of a contract, to be submitted back to the principals, and it was thoroughly understood by Mr. Hays that the Sub-Committee's power was limited to suggestions to the Board of Directors of the Motion Picture Theatre Owners of America.

At the first meeting of the Sub-Committee, it developed that Mr. Hays was carrying on negotiations with the Theatre Owners Chamber of Commerce of New York City, a local New York City Organization, and a few other New York Exhibitors, for the same announced purpose, that of securing better contract arrangements between Producers and Distributors, and Exhibitors.

On account of this situation an agreement was entered into between representatives of the Motion Picture Producers and Distributors of America and our Organization that no statements relative to the negotiations would be given out for publication by either party until an agreement had been finally reached and that then a joint statement would be given out.

As the negotiations extended over a period of more than six months I will make no attempt to go over the entire contract, but will confine myself to the points on which we could not agree, and to the events which lead up to the discontinuance of further negotiations with Mr. Hays and his organization.

At the first meeting of the Sub-Committees, we submitted a tentative draft of a contract, and the two sub-committees definitely agreed on a number of clauses but were entirely unable to agree on a clause covering advance payments or cash deposits. The next day our sub-committee with your

National President, met Mr. Hays and Mr. L. J. Selznick of Selznick Pictures Corp., and Mr. Hays urged us not to allow the dispute over advance deposits to interfere with further negotiations. He stated that there were certain members of his organization whose financial affairs were such that it was absolutely necessary for them to have the Exhibitors cash deposits to enable them to stay in business.

We then suggested as a compromise, that the exhibitors advance cash deposits should be segregated in a trust fund and safeguarded so as to prevent loss to the exhibitors in the event of a failure or bankruptcy of any Producer or Distributor. After a long discussion of this point Mr. Hays suggested that whenever we were unable to agree on a disputed point, to set it aside and go through the entire contract, and then take up the disputed points at a later conference. This procedure was carried out and after many conferences the principal points on which there was a complete failure of agreement, were as follows:

[fol. 3536] All advertising matter must be leased through the distributor and must not be re-sold or given away by the exhibitor.

Advance payments or cash deposits.

A clause which denied the exhibitor the right to make any elimination in the film, except with the written or telegraphic approval of the distributor.

A clause requiring the exhibitor to use copy furnished by the distributor in all newspaper advertising and publicity relating to said photoplay.

A clause covering play dates.

A clause covering time limit for acceptance of application for contract.

The inclusion of an arbitration agreement as part of the contract, and the fixing of penalties by the arbitration board.

I will now take up these disputed points in the order named and explain briefly the results obtained, or rather the lack of results.

Advertising Matter

We contended that the exhibitor having paid for advertising accessories owned it, and should have the right to dis-

pose of it as he saw fit, especially in view of the exhorbitant prices being charged by the distributor for accessories. We had the information that a set of photos sold to the exhibitor at seventy-five cents to one dollar per set, cost from nineteen to twenty-three cents per set. That one sheet lithographs sold at from twelve to fifteen cents, cost six to seven cents per sheet, and that all other accessories were sold to the exhibitor at similar exhorbitant profits.

Mr. Kent contended that the accessory department of the Famous Playse-Lasky Corporation showed a loss despite the high prices charged for accessories. A suggestion was made by one of our committee that some arrangement be entered into whereby exhibitors should return all accessories to the exchange and receive a fifty percent credit refund to be paid him at the end of the season. After a long discussion Mr. Kent suggested that the accessory question was such a complicated one, that a separate committee ought to be appointed to go into the matter thoroughly and report back to our committee. Mr. Hays agreed to this and asked Mr. Cohen to appoint a committee, and Mr. Cohen appointed Mr. Woodhull of Dover, New Jersey, Mr. A. J. Moeller of New York and Mr. Edward Fay of Providence, R. I. Mr. Hays promised to appoint his committee and Mr. Kent volunteered to have the head of his accessory department serve on that committee if Mr. Hays so desired. We were never notified by Mr. Hays of the appointment of this committee and nothing further was done about it though the matter was brought to Mr. Hays attention at two subsequent meetings.

Advance Payments—Cash Deposits

We were unable to get any concession on this question. The Producers and Distributors standing pat and refusing to eliminate this clause from the contract and also refusing to safeguard the advance deposits in a trust fund.

Denying Exhibitor Right to Make Eliminations

Our contention was that the exhibitor should have the right to eliminate objectionable scenes or titles from a film which scenes or titles might offend his public. We be-

lieve the exhibitor is the best judge of what his public would take objection to. Many producers have inserted and are now inserting paid camouflaged advertising in feature films, which we insist the exhibitor shall have the right to eliminate. The same thing is also true of attempts to insert political propaganda into the news reels. Mr. Hays' suggestion of a remedy for this condition was that the exhibitor could apply to the distributor by letter or telegram for permission to make the elimination. We explained to Mr. Hays that this was not practical as most of the exhibitors did not see the picture until its play date in their own theatre which would be too late to secure such permission. We were unable to come to any agreement on this clause.

Exhibitor Must Use Distributor's Copy in His Newspaper Advertising

We took the position that the exhibitor paid for his newspaper advertising and that no one had the right to dictate to him the copy he should use. We stood pat on this and could come to no agreement with them.

[fol. 3537]

Play Dates

This subject led to long discussions and at one of the last conferences Mr. Ludvigh of the Famous Players-Lasky Corporation presented a typewritten clause covering this subject. Many suggestions were offered for changes of which Mr. Ludvigh made notes, and he was finally requested to redraft the clause and mail it to our office, which was done several weeks later.

Final disposition of this subject never came up as it was left pending the agreement to satisfactory arbitration, which matter is covered later in the report.

Acceptance

A clause which specified that the distributor had the right to solicit application for film rental contracts to be approved in the home office with a provision that if the exhibitor was not notified of the approval from fifteen to

twenty-five days according to geographical location, the application for contract automatically became void.

Our contention was that the practice of film salesmen soliciting more than one contract for the same picture from competitive theatres was grossly unfair. We requested a clause in the contract that the acceptance of a contract from an exhibitor signed by a salesman or representative of the distributor should be binding unless notice of rejection of said contract was received by the exhibitor within fifteen days for points east of the Mississippi and twenty-five days for points west of the Mississippi.

The lawyers representing the distributors objected to this clause stating that they did not care to assume responsibilities for the acts of their own salesmen and that all contracts must be approved at the home office and that they would not consider a contract at all binding until signed by an officer or authorized representative at the home office.

Their counter proposal was that if an application for contract had not been accepted by the home office in fifteen days from points east of the Mississippi and twenty-five days from points west of the Mississippi, that the application was automatically rejected.

After considerable discussion this clause was accepted by us with the agreement that the distributor would instruct all salesmen that they may not solicit or accept applications for contracts from competing theatres for the same pictures and that all application blanks would carry said instructions to salesmen in red ink across the bottom of the application form.

Arbitration Clause

In regard to arbitration clause, I submit the following quotation from draft of June 23, 1922, sent from our National Office to Mr. Hays, covering the question of an arbitration clause incorporated into the contract. "This clause must be eliminated entirely. It was agreed that no clause for arbitration should be included in the contract. The entire question of arbitration was to be elaborated and when completed was to be embraced in some document outside of the contract". In spite of this agreement Mr. Hays submitted to us on September 28, 1922, a

printed form of contract with an arbitration clause included, and with a drastic penalty against the exhibitor who should refuse to arbitrate any case or refuse to abide by a decision of the arbitration board.

In reference to penalties, it was agreed in our first conference that there should be no penalties on either side of the contract. In support of this statement, I quote from a letter signed by Will H. Hays on the stationery of the Motion Picture Producers and Distributors of America, Inc., and addressed to Mr. Sydney S. Cohen, President of the Motion Picture Theatre Owners of America and Members of the National Executive Committee: under date of June 21, 1922, "The present draft eliminates all penalties on both sides. It sets up what I hope will prove to be a workable and fair method of selecting play dates which will cure at the same time the evils both of over buying and overselling."

In spite of this statement, the final draft submitted included a penalty against the exhibitor of not less than one hundred dollars nor more than five hundred dollars for each contract in force, not alone in favor of the aggrieved distributor, but the demand for such payments could be made by every distributor with whom the offend- exhibitor had existing contracts. This final draft of the arbitration clause was accompanied by a legal opinion from Cadwalader, Wickersham & Taft, saying that they did not believe that this clause was a violation of the anti-monopoly and conspiracy laws of the several states.

[fol. 3538] The penalty against the distributor who should refuse to abide by a decision of the arbitration board was that the aggrieved exhibitor might, at his option, cancel any existing contracts that he had with the offending distributor. Our contention was that if a cash penalty was to be assessed against the exhibitor for breach, that a similar cash penalty should be assessed against the distributor who should breach. This proposal was rejected by the representative of the distributor. We then suggested to Mr. Hays that this clause be changed to read that all of the exhibitors in that zone should have the right, at their option, to cancel all existing contracts with the offending distributor, but Mr. Ludvigh of Famous

Players-Lasky Corporation, strenuously opposed the suggestion, and said they would not consider such a clause under any conditions.

Finally a stage in our negotiations with Mr. Hays was reached where it became evident that his group were not desirous of compromising on the seven clauses under dispute. These clauses were so lacking in equity that exhibitor leaders from various parts of the Country were unanimous in the opinion that we could not approve a contract including them. In view of this situation your National President Mr. Sydney S. Cohen wrote Mr. Hays on August 16, 1922, the following letter:

Copy of Letter

August 16th, 1922.

Hon. Will H. Hays, President, Motion Picture Producers & Distributors of America, 522 Fifth Avenue, New York City.

Dear Mr. Hays: On July 14th the occasion of our last conference with you with respect to the proposed equitable contract, Mr. Kirchwey stated the various points of apparent irreconcilable conflict between our respective organizations.

I have since received a letter from Mr. Kirchwey dated July 24th, in which he states in succinct form the grounds of opposition to our suggestions.

I have submitted to the members of our Board of Directors, copies of Mr. Kirchwey's letter and our draft of June 23rd, so that they might have before them both sides of these various debatable provisions.

From the replies received I am requested to present to you a suggestion which may bring about a solution of the problem.

At the beginning of our conferences on this subject, I stated that there were necessarily three parties to our negotiations—to wit, the Producers, the Theatre Owners and the Public. The producers and the theatre owners having stated their respective positions and having found themselves at an impasse, it is now apparently necessary to

request a statement of the public's position which ought to be controlling.

Accordingly we suggest that various questions concerning which we cannot arrive at an agreement be left for consideration and determination to a committee of seven men of public position, three of whom to be nominated by us, three by the producers and the six thus nominated to select the seventh who shall act as chairman with full power to vote.

If this suggestion is acceptable to you, we hope to nominate as our three members, a public official, an educator of prominence and a business man of large interests but having no contact with our Industry.

A committee thus constituted will be able to view our problems from a new and fresh angle free from the fears and suspicions that have been repeatedly expressed during our negotiations and possibly arrive at a result so simple in solution that we may be surprised that we were unable without their assistance to discover the road to the goal we have been striving for—an equitable contract with adequate machinery to insure a fair, proper and effective enforcement of its provisions.

The outstanding differences in the attitude of the Motion Picture Theatre Owners of America, represented by its Board of Directors and other National Officers, and the Motion Picture Producers and Distributors of America, Inc., represented by yourself and others, as we view it, are as follows:

[fol. 3539] First. The Motion Picture Theatre Owners of America insist upon the right of the theatre owner to eliminate objectionable scenes, insidious propaganda or clearly apparent advertising matter from all films. We take this position to protect the theatre going public.

Your Organization, the Motion Picture Producers and Distributors of America, Inc., insist upon the theatre owner using the film in the exact form in which it is delivered by the Distributor, despite the fact that in nearly every instance the theatre owner has no opportunity afforded him to see the filmed production until the same is shown on the screen in his theatre.

The theatre owner is a citizen of the community in which his theatre is located and knows best what the people want

and must always be in a position to cater to the desires of his patrons.

The proviso in your draft of the contract, that we may make changes on written permission from the Distributor, affords the Public no guarantee of protection as the theatre owner cannot tell whether a change is needed or not until he sees his first show on the screen in his theatre and then it is too late to get such written permission.

Second. The Theatre Owners cannot appreciate the position taken by the Producer and Distributor that in his newspaper advertising of all shows he must publish the name of the producer. He believes this to be a burdensome, costly and unnecessary imposition. The theatre owner is the best judge of the kind of advertising he should use in newspapers, especially when he is paying for the same and is naturally desirous of protecting his theatre investment and preserving its value to the community.

Third. The Theatre Owner, knowing and understanding best the sentiment and desires of the people in his community, must have the privilege of designating the original play dates for all productions. The Producer and Distributor, in your draft of the contract, insists upon exercising that privilege which is clearly against the interests of the theatre owner and prejudices the rights of the Public.

Fourth. The Theatre Owners' representatives agree that the Producer and Distributor shall not be responsible for delays or damages incident to the production or delivery of film "due to causes beyond their control". The Producer and Distributor refuses to agree that the theatre owner shall not be responsible for damages to film "due to causes beyond his control", thereby destroying the reciprocal phases of the contract.

With respect to the matter of deposits referred to on Page 2, Clause 1 of Mr. Kirchwey's statement—while we are opposed to the deposit plan in principle, we cannot too strongly emphasize our previous position, that where deposits are exacted the Theatre Owners' money must be safeguarded absolutely by having the same segregated and kept in a proper trust fund to be applied on the contracts when performed by the theatre owner.

In relation to the cost of destroyed or lost film, the same should be "at actual replacement cost" but in no event to exceed eight cents per foot.

Whatever contract concessions or privileges may be accorded to the Producer and Distributor, should be balanced by reciprocal concessions to the theatre owner to preserve the mutuality of the contract.

It may be that these differences can be reconciled and definite agreements effected without having recourse to outside mediation. But if we cannot reach an agreement then the interests of the Industry and the Public demand that equitable trade relations be established through the other source.

Awaiting your reply, I am

Sincerely yours, Motion Picture Theatre Owners of America. (Signed) Sydney S. Cohen, President.

[fol. 3540] Mr. Hays answered briefly on August 18th, saying he had read the letter with interest and would again take the matter up with his committee. On August 29th, Mr. Cohen telephoned Mr. Hays and discussed with him again the question of calling in representatives of the public to arbitrate our differences, as I have just outlined in the letter read. In this telephone conversation Mr. Hays indicated that Mr. Cohen's plan met with his approval. On the same day Mr. Cohen wrote Mr. Hays a letter asking him to write to Mr. Cohen a short letter bearing upon the subject as discussed by telephone. Mr. Hays answered this letter on August 30, again stating that the whole matter had been referred to the committee of the Producers and Distributors.

A lapse occurred at this time in negotiations due to Mr. Hays' absence on the West coast and early in November we were invited to resume negotiations. Before attending the conference, we were advised by our counsel that unless we could arrive at a satisfactory basis of arbitration it would be useless to continue discussion on points on which we were apparently hopelessly deadlocked. We therefore, took up with Mr. Hays and his associates at this meeting the plan of arbitration by representatives of the public as suggested in Mr. Cohen's letter of August

16th, which plan had been agreed to by Mr. Hays over the 'phone.

After considerable discussion Mr. Ludvigh, Treasurer and General Counsel of the Famous Players-Lasky Corporation, vigorously opposed the plan stating "No we would not consider allowing the public to interfere in this matter as we will never surrender our 'Sovereign Rights' ". Mr. Gilbert, our Counsel, replied that some of these disputed questions affected the public so deeply that neither of us could afford to take the position that "The public be damned" and if we could not agree on a basis of arbitration between ourselves, and were not willing to submit to our Public, a third and independent party, it would be useless for us to continue our negotiations on the other differences.

Just before the conferences broke up Mr. Hays made a statement that we had made wonderful progress and that he believed they, the distributors, ought to go ahead and have contracts printed based on the last brief submitted by them, which brief contained the seven clauses not agreed upon. Your Board of Directors told him plainly that the issuance of such a contract form would be grossly unfair to exhibitors as some of the agreements reached had been predicated entirely upon the possibility of securing equally tangible concessions from the producers and distributors. We left the conference room with a very definite understanding that no contract forms would be printed until we had met again. No further negotiations were conducted until on Saturday, January 27, 1923, a letter was received at our National Headquarters containing twenty copies of a proposed contract with a request from Mr. Hays for a meeting of the committee of our organization on February 2, at Mr. Hays' office in New York.

On Monday, January 29, our National President had a letter delivered to Mr. Hays' office requesting eighty additional copies of the contract form to be submitted to members of our Executive Committee, Presidents of the State Organizations, and leaders in different parts of the Country. These copies were sent to our National Headquarters on Wednesday, January 31, and immediately mailed out to our leaders as indicated.

In the same letter Mr. Cohen stated to Mr. Hays as follows: "You will understand how impossible it will be for us to have a meeting with any practical results on Friday of this week as you mention". In spite of this as pointed out in Mr. Cohen's letter to Mr. Hays, on Friday, February 2nd, two days after the drafts of the contract were received and mailed from our office and before our office could possibly get replies and opinions from our organization leaders, Mr. Hays held a meeting with members of his organization and a few local New York exhibitors none of whom had been present during our negotiations with Mr. Hays and the representatives of the Producers and Distributors. At a meeting on February 2nd, the Motion Picture Producers and Distributors of America, Inc., adopted a contract form of their own draft and promulgated, advertised and attempted to apply to the theatre owners of the country this contract, without consulting our organization and entirely without our sanction.

This unexpected move on the part of the Hays' office brought out a letter of protest from our National President Sydney S. Cohen, copy of which letter bearing the date of February 27, 1923, was printed and mailed to each member of the National Board of Directors. (Copy of letter appended herewith.) Replies from leading exhibitors of the country were to the effect that it would be business suicide for exhibitors to accept this contract as adopted by the Hays' Organization. It was most unfair and arbitrary in its rulings and that they further resented his attempts to publish by inference that his contract had been adopted with the approval of the theatre owners.

[fol. 3541] Several of the state organizations passed resolutions condemning the action of the Hays' organization and adopting a contract of this nature and that a meeting of your Board of Directors held at the Hotel Sherman on Saturday night, May 19, a special committee was appointed to bring this matter to the attention of this convention with recommendations.

This special committee of which Mr. W. W. Whitson of San Diego, California, is Chairman has prepared a report with proposed resolutions for recommendations for your consideration.

[fol. 3542] The brand of co-operation offered by Will Hays, "czar of the motion picture producers and distributors," was scorned by representatives of 12,000 motion picture theatres throughout the country, when their delegates at the fourth annual convention of the Motion Picture Theatre Owners of America unanimously rejected the Hays uniform contract, Tuesday at the Coliseum.

The resolution, turning down the uniform contract, follows:

"Whereas, one year ago our convention ordered a conference with Will H. Hays following his speech 'Confidence and Co-operation' made before our members; Whereas, the contract offered by the Hays organization contains these obnoxious clauses:

" 'The clause containing the ownership by the distributing company of advertising accessories after the exhibitor has paid for them.

'The clause requiring cash deposits.

'The clause denying us the right to cut out any part of a film, even advertising matter skilfully worked in, objectionable scenes or political propaganda.

'The clause requiring us to advertise the name of the producer and distributor in our paid newspaper advertising.

'The cumbersome method of fixing play dates and the omission of any method of changing play dates.

'The clause affecting the automatic rejection of applications for contract.

'The arbitration clause which attempts to deny our constitutional right to trial by jury and to compel our members from California to Maine to arbitrate under the laws of the state of New York and under rules drawn up by the distributors.' "

"Resolved that we heartily approve the action of our officers and directors in rejecting the so-called uniform contract, and

"Be it further resolved, that we urge all exhibitors not to sign this unfair, inequitable, un-American contract that members of the Motion Picture Producers and Distributors of America, Inc., are attempting by concerted action to force upon the exhibitors of this country."

The resolution is signed in behalf of the theatre owners by W. W. Whitson, chairman; Charles T. Sears, Martin G. Smith, C. C. Griffith, Tom Arthur, Howard Smith, C. E. Williams.

[fol. 3543] June 7th, 1923.

Mr. Will H. Hays, President Motion Picture Producers and Distributors of America, Inc., 522 Fifth Avenue, New York City.

My Dear Mr. Hays: At the recent Chicago convention of the Motion Picture Theatre Owners of America, the enclosed report and resolution dealing with the conferences our National Officers had with you during the past year were presented, and both unanimously adopted.

You will note there are seven points of difference mentioned in this resolution.

Our temporary closing of the conferences with you on reaching a seeming deadlock, as indicated in my letter to you, was for the purpose of submitting the entire situation to our National Convention and securing such a definite expression of opinion there as to enable us to proceed again, if agreeable to all concerned.

Are you and the interests you represent, now prepared to discuss the modification of any of these differences between us? You will appreciate that the action of the National Convention has made these points of difference the concern of all Theatre Owners in the country and not only the judgment of our National Officers.

Trusting we may hear from you soon in this matter, we are

Sincerely yours, Motion Picture Theatre Owners of America. —— ——, President.

encl-s.

[fol. 3544] Whereas, one year ago our convention ordered a conference with Will H. Hays following his speech "Confidence and Cooperation" made before our members:

Whereas, the contract offered by the Hays organization contains these obnoxious clauses:

1. The clause containing the ownership by the distributing company of advertising accessories after the exhibitor has paid for them.

2. The clause requiring cash deposits.

3. The clause denying us the right to cut out any part of a film, even advertising matter skillfully worked in, objectionable scenes or political propaganda.

4. The clause requiring us to advertise the name of the producer and distributor in our paid newspaper advertising.

5. The cumbersome method of fixing play dates and the omission of any method of changing play dates.

6. The clause affecting the automatic rejection of applications for contract.

7. The arbitration clause which attempts to deny our constitutional right to trial by jury and to compel our members from California to Maine to arbitrate under the laws of the state of New York and under rules drawn up by the distributors.

Resolved, that we heartily approve the action of our officers and directors in rejecting the so-called uniform contract, and

Be it further resolved, that we urge all exhibitors not to sign this unfair, inequitable, unAmerican contract that members of the Motion Picture producers and Distributors of America, Inc., are attempting by concerted action to force upon the exhibitors of this country.

W. W. Whitson, Chairman; Charles T. Sears, Martin G. Smith, C. C. Griffin, Tom Arthur, Howard Smith, C. E. Williams.

[fol. 3545] GOVERNMENT'S EXHIBIT 49

Excerpt from Testimony of Mr. Pettijohn Seventh Annual Convention of the Motion Picture Theatre Owners of America

Mr. Pettijohn: Gentlemen of the Convention: Those gentlemen who voted against a motion to hear me, I will wait

until they go out now. I appreciate this as a real treat. This is not the first time I have attended an exhibitors' convention. Just nine years ago tomorrow night Frank Rembusch kidded me into going to Chicago and I think I have attended every exhibitors' national meeting since that time. I see here many faces that I saw then, and some are missing. I presume without getting away from the record, that I am directed to talk to you on a special subject matter without discussing anything else, and the subject matter is the uniform exhibition contract.

I do not expect to make a talk on that subject that will be popular, but I will confine myself to facts and not misrepresent the record. The committee that sat in on the uniform contract was not a legally constituted body or particularly authorized by anybody. Nobody denies that fact. It was a sincere invitation given all exhibitors by Will H. Hays to come in and in an orderly manner and bring such suggestions as they might have that we might sit down as peaceful boys and begin to start, to do, to commence, to go somewhere. The standard clauses of the exhibition contract agreed upon remain in effect today. It was agreed at that time that such questions as percentages and as road-showing or those things that might be peculiar to a salesman on his contract, or a branch manager, that those clauses should be set out in the face of the contract where they [fol. 3546] would show plainly. The only change made with reference to that agreement was the insistence of the last convention that they be printed in red ink. It was suggested that we set up part of the type in red ink. Now the road-show clauses took up probably three hours of discussion. Nobody got anywhere on either side. Road-showing a picture doesn't hurt a picture. It helps it and I say why throw a fit over it? Road-showing of a picture nationally was what was contemplated and agreed upon and I am not afraid to say that was the understanding. First National had a clause with reference to specials. They explained it in an ordinary way, why they thought it was necessary in view of the contracts with particular stars. And with reference to Mr. Steffes, the counsel of First National said, "I will make and honest and sincere effort and see if I cannot withdraw the clause between the time you have your convention and that is all there was to it. Now is

there *is* anything so very bad about the contract now? God knows it is better than it was five or six years ago. The men who have rendered service to your organization, and there are many of them today, voted for it and they got it for you. They weren't opposed so much by these terrible distributors and producers. They would sit down and discuss things in an ordinary manner. It was done in a manner that was not based on personal exploitation of the individuals who are doing the talking. If there is anything wrong with the contract,let's be fair. I think I can improve on the contract. I think you can, Sydney Cohen. I think you can, Mike, and I think, boys, we are beginning to get somewhere. We will meet with your honestly and fairly.

[fol. 3547] No man yet has been able to lay a piece of bad faith to any man connected with our organization, and I give you my word that you won't find a breaking of faith of William H. Hays or anybody else conected with our organization. We believe in representing ourselves with the same sincerity of purpose as you represent yourselves. I want to take this opportunity because I won't have it again. I hope you will all go tonight and pay your respects to Sydney Cohen. No two men have differed more than Sydney Cohen and I in the past five or six years, and I am going to his party tonight and pay my respects to him. (Applause.)

If some of you who have differences of opinion will broaden out a bit and get along as Sydney and I, have broaden- out, it will do a lot of good.

I want to take this opportunity of saying this, and of paying my respects to people besides Sydney Cohen. Mike Comerford has done splendid work. Al Steffes has done a great deal for your organization and I praise him for it. Mr. Ritchie—don't discount the brains of Ritchie. You need them and can use them. He has rendered service. Mike O'Toole has served you men and served you well. And Pete Woodhull—no man needs to say anything of him. I am glad to sit with Pete anywheres and perform the brother act. It is a good act. I want to say, as I have said before, how much I respect Mr. Frank Rembusch of Indiana; just as much respect do I have for Colonel Cole of Texas, Glenn Cross, Julian Brylawski and Dick Bie-

chele—that splendid type of man who came up here and told us what you wanted. You know he is the first man in the country who ever attacked the censorship law for [fol. 3548] you, and I am proud of Biechele and Jack Miller and Steffes and Joe Walsh of Connecticut, and I want to thank Joe Walsh for the kind things he has said. Then there is Tommy Goldberg and Harry Davis and many others that have rendered service that you couldn't buy with all the big men and money in the world. And then there is Jack Harwood and I have had four or five fights with him. We have sat down and called each other Jack and Charley and ironed them out. Then there is Brylawski and Johnny Miner and hosts of others. There is Harper and Berinstein and many others. And I could talk—you talk of this resolution of not passing this uniform contract. It is a good contract. It is going to be used in 1926 and 1927. I represent the distributors and there won't be any more conferences in 1926. We can't correct those contracts every two weeks. You can pass all the resolutions you want to in an orderly proper way and we will sit with you on anything on which we have an honest difference. And that goes without any qualifications whatever. Now I take this occasion to say to you men in the hopes that it will spur you on to the things you have the power in your hands to be. You know that I am not unsympathetic to your problems. I am proud of the Film Boards of Trade and I am proud of the arbitration work. We have a real organization and it is effective and that is what you men should have. My message from the Film Board of Trade is that if you men cannot get together before the end of this convention and love one another I think you will have an organization that the Film Board of Trade will not have be afraid of. If you want to fight among yourselves do that, and if you want to stand for an organization and cut out this bickering and backbiting—I [fol. 3549] hope from this time on, boys, you cut it out. I want you all to go down tonight to Sydney Cohen's party. Let us all go down, let us all be there. I do not get any percentage for selling these tickets, do I? (Laughter.)

Go on into your convention tomorrow morning and finish up this work. We will either play with you or play ball with you— (Laughter.) I hope you all come in here tomorrow. Steffes did the right thing by saying he would

get in and ride along with you. It doesn't make any difference who wears the badges. You have the personnel here to handle the things you want.

In closing let me say once and for all that the man that says the distributors and producers don't want to see an independent organization—we don't only want to see it but we want to see it stand for something. So stand together and meet us for the common end on the outside.

[fol. 3550] IN SUPREME COURT OF THE UNITED STATES

DESIGNATION AND STATEMENT UNDER RULE 13, PAR. 9.—Filed April 30, 1930

I. The appellants hereby submit, as the statement of points on which they intend to rely, the following:

1. The Court erred in holding that the agreement of the apellants to adopt and to use exclusively in contracting with exhibitors of motion pictures throughout the United States the "Standard Exhibition Contract" dated May 1, 1928, and the adoption by the appellants of the "Rules of Arbitration" dated May 1, 1928, and all the activities and agreements of said apellants by means of which they have collectively effected the adoption of and compliance with said "Standard Exhibition Contract" dated May 1, 1928, and said "Rules of Arbitration" dated May 1, 1928, amount to coercion and constitute a conspiracy in restraint of interstate trade and commerce in violation of the Act of Congress known as the Sherman Anti-Trust Act, as well as a conspiracy at common law.

2. The Court erred in refusing to hold that the agree-[fol. 3551] ment of the appellants to adopt and to use exclusively in contracting with exhibitors of motion pictures throughout the United States the "Standard Exhibition Contract" dated May 1, 1928, and the adoption by the appellants of the "Rules of Arbitration" dated May 1, 1928, and all the activities and agreements of said appellants by means of which they have collectively brought about the adoption of and compliance with said "Standard Exhibition Contract" dated May 1, 1928, and said "Rules of Arbitration" dated May 1, 1928, constitute normal and

reasonable regulations of a business and, notwithstanding the interstate character of the business, do not violate the Act of Congress known as the Sherman Anti-Trust Act.

3. The Court erred in holding that the appellants had agreed to refuse to make departures from the "Standard Exhibition Contract" dated May 1, 1928, even if requested to do so by an exhibitor.

4. The Court erred in refusing to hold (a) that the fact that the "Standard Exhibition Contract" dated May 1, 1928, and the "Rules of Arbitration" dated May 1, 1928, were adopted pursuant to a resolution adopted at a Trade Practice Conference held under the auspices of the Federal Trade Commission in October, 1927, the resolution being approved by the Federal Trade Commission on May 25, 1928, established prima facie the reasonable and lawful character of the said "Standard Exhibition Contract" dated May 1, 1928, and "Rules of Arbitration" dated May 1, 1928, and (b) that this prima facie showing was not overcome or rebutted by the evi- [fol. 3552] dence introduced on behalf of the United States.

5. The Court erred in refusing to hold (a) that the fact that the "Standard Exhibition Contract" dated May 1, 1928, and the "Rules of Arbitration" dated May 1, 1928, were adopted pursuant to the demand and insistence of the representatives of exhibitors and exhibitor organizations throughout the United States established prima facie the reasonable and lawful character of the said "Standard Exhibition Contract" dated May 1, 1928, and "Rules of Arbitration" dated May 1, 1928, and (b) that this prima facie showing was not overcome or rebutted by the evidence introduced on behalf of the United States.

6. The Court erred in refusing to hold (a) that the "Standard Exhibition Contract" dated May 1, 1928, and the "Rules of Arbitration" dated May 1, 1928, had their origins respectively in the "Uniform Exhibition Contract" of 1923 (and the modified form thereof known as the "Standard Exhibition Contract" dated March 1, 1926) and in the "By-Laws of Film Boards of Trade Relating to Arbitration" (and the modified forms thereof known as the "Rules and Regulations Relating to

Arbitration" dated March 1, 1926, and the "Rules and Regulations Relating to Arbitration" dated December 1, 1926), coupled with the circumstance that said Contracts, By-Laws and Regulations of 1923 and 1926 were themselves adopted pursuant to the demand and insistence of the representatives of exhibitors and exhibitor organizations throughout the United States, established prima facie the reasonable and lawful character of the said "Standard Exhibition Contract" dated May 1, 1928, and "Rules of [fol. 3553] Arbitration dated May 1, 1928, and (b) that this prima facie showing was not overcome or rebutted by the evidence introduced on behalf of the United States.

7. The Court erred in refusing to hold (a) that the circumstance that the "Standard Exhibition Contract" dated May 1, 1928, and the "Rules of Arbitration" dated May 1, 1928, were put into effective operation by means of the active cooperation of the representatives of the exhibitors and exhibitor organizations throughout the United States and at the insistence of said exhibitors and exhibitor organizations throughout the United States, established prima facie the reasonable and lawful character of the said "Standard Exhibition Contract" and "Rules of Arbitration," and (b) that this prima facie showing was not rebutted by the evidence introduced on behalf of the United States.

8. The Court erred in failing to hold that said "Standard Exhibition Contract" dated May 1, 1928, and said "Rules of Arbitration" dated May 1, 1928, are normal and usual contracts and agreements and methods of furthering trade, and not unlawful.

9. The Court erred in refusing to hold that the methods whereby the "Standard Exhibition Contract" dated May 1, 1928, and the "Rules of Arbitration" dated May 1, 1928, were put into effective operation, were normal and usual methods of furthering trade and were not unlawful.

10. The Court erred in characterizing as an unlawful conspiracy and in enjoining appellants from continuing to carry on, the activities and means whereby the effective operation of the "Standard Exhibition Contract" dated [fol. 3554] May 1, 1928, and the "Rules of Arbitration"

dated May 1, 1928, is maintained; and in enjoining appellants from doing any other acts or using any other means to the same end.

11. The Court erred in enjoining the appellants from entering into any agreement embodying the provisions of Paragraph "Eighteenth" of said "Standard Exhibition Contract" dated May 1, 1928, and/or the provisions of said "Rules of Arbitration" dated May 1, 1928.

12. The Court erred in enjoining the appellants from enforcing, directly or indirectly, any of the provisions of Paragraph "Eighteenth," entitled "Arbitration," of said "Standard Exhibition Contract" dated May 1, 1928, against any exhibitor of motion pictures in the United States having an existing contract licensing the exhibition of a motion picture or of motion pictures which contains said paragraph.

13. The Court erred in enjoining the appellants from enforcing, directly or indirectly, any of the provisions of Rule IV, entitled "Enforcement of Decisions of Board of Arbitration," of said "Rules of Arbitration" dated May 1, 1928, against any exhibitor of motion pictures in the United States, on account of any claim, controversy or dispute arising under or on account of any existing contract licensing the exhibition of a motion picture or of motion pictures.

14. The Court erred in enjoining the appellants from demanding security for the performance of existing contracts from any exhibitor of motion pictures in the United States [fol. 3555] because of any failure or refusal to comply with any provisions of said Paragraph "Eighteenth," entitled "Arbitration," of said "Standard Exhibition Contract" of May 1, 1928, contained in any existing contract licensing the exhibition of a motion picture or of motion pictures.

15. The Court erred in refusing to hold that an agreement among distributors of motion picture films to decline to complete existing contracts with exhibitors who have either refused to submit to arbitration a controversy arising under a contract containing an arbitration clause or refused to comply with the decision of a board of arbitration, until security is deposited is a normal and usual method furthering trade, and not unlawful.

16. The Court erred in enjoining the appellants from retaining any sum or sums heretofore received in accordance with the provisions of said Paragraph "Eighteenth" of said "Standard Exhibition Contract" dated May 1, 1928, and/or said Rule IV entitled "Enforcement of Decisions of Board of Arbitration" of said "Rules of Arbitration" dated May 1, 1928, from any exhibitor of motion pictures in the United States, as security for the performance of any contract licensing the exhibition of a motion picture or of motion pictures.

17. The Court erred in enjoining the appellants from suspending and from refusing to promptly resume service to any exhibitor in the United States because of any failure or refusal to comply with any provision of said Paragraph 'Eighteenth" of said "Standard Exhibition Contract" [fol. 3556] of May 1, 1928, or of said "Rules of Arbitration" dated May 1, 1928, unless there be legal cause for suspending or refusing to promptly resume such service arising independently of any of the proivsions of said Paragraph "Eighteenth" of said "Standard Exhibition Contract" or of said Rule IV of said "Rules of Arbitration."

18. The Court erred in refusing to hold that Paragraph "Eighteenth" entitled "Arbitration" of the "Standard Exhibition Contract" dated May 1, 1928, is a normal and usual method of regulating and furthering trade.

19. The Court erred in refusing to hold that Rule IV entitled "Enforcement of Decisions of Board of Arbitration" of the "Rules of Arbitration" dated May 1, 1928, is a normal and usual method of regulating and furthering trade.

20. The Court erred in enjoining appellants from combining or agreeing so to condition their contracts for licensing the exhibition of motion pictures as to require any exhibitor in the United States to submit to arbitration any claim, controversy or dispute with any appellant or with any member of any appellant Film Board of Trade, arising under any contract licensing the exhibition of a motion picture or of motion pictures.

21. The Court erred in enjoining appellants from combining or agreeing so to condition their contracts for

licensing the exhibition of motion pictures as to require any exhibitor in the United States to waive the right to have settled by a Court of competent jurisdiction any claim, controversy or dispute with any appellant or with any member of any appellant Film Board of Trade, arising [fol. 3557] under any contract licensing the exhibition of motion pictures.

22. The Court erred in enjoining appellants from combining or agreeing so to condition their contracts for licensing the exhibition of motion pictures as to require any exhibitor in the United Sattes to comply with any award rendered against him in any arbitration proceeding with any appellant or with any member of any appellant Film Board of Trade, arising under or on account of any contract licensing the exhibition of a motion picture or of motion pictures, without recourse or appeal to any Court having jurisdiction of the claim, controversy or dispute occasioning said award.

23. The Court erred in refusing to hold that the circumstance (admitted of record by stipulation) that each contract between distributor and exhibitor was a matter of negotiation and bargaining between the distributor and the exhibitor, negatived coercion and precluded the imputation of an unlawful character to the activities of the appellants.

24. The Court erred in holding that, even though competition is in fact promoted rather than lessened by the adoption of the "Standard Exhibition Contract" dated May 1, 1928, and the "Rules of Arbitration" dated May 1, 1928, the tendency of the activities of the appellants to restrain the freedom of outsiders to engage in the trade renders such activities unlawful.

II. The appellants submit that the parts of the record necessary for the consideration of the foregoing points are the following:

Petition.

[fol. 3558] Answer.

Opinion.

Decree.

Petition for Appeal and Notation of Allowance.

Assignment of Errors.

Citation, with Proof of Service.

Statement of Evidence in Narrative Form, with Stipulation of the Parties and Approval of the Court.

Stipulation as to Contents of Record.

Certificate of the Clerk of the United States District Court for the Southern District of New York.

The following Exhibits of the Defendants:

Exhibit A, being Associated First National Pictures, Inc. Blanket Contract, used Selling Seasons 1922-1923, 1921-1922, and 1920-1921, Paragraphs First, Third, Fifth, Sixth, Eighth and Eleventh.

Exhibit B, being Famous Players-Lasky Corporation License for Exhibition of Paramount Pictures, Paragraphs Second, Fourth (subparagraph [5] only), Fifth, Sixth, Seventh and Ninth.

Exhibit C, being Fox Film Corporation Contract for Super-Special Productions, 1922-1923, Paragraphs Third, Ninth, Eleventh and Fourteenth.

Exhibit D, being Fox Film Corporation Contract for Star Series and 20th Century Pictures 1921-1922, Paragraphs First (omitting schedule), Third, Eighth, Fifteenth and Seventeenth.

Exhibit E, being Fox Film Corporation Contract for Super-Special Production, 1921-1922, Paragraphs Third, Fourth, Sixth, Seventh, Ninth and Tenth.

[fol. 3559] Exhibit F, being Goldwyn Cosmopolitan Distributing Corporation 1922-1923 Contract, Paragraph Fourth on the front of the exhibit; Paragraphs (c), (g), (h), (n), (o) and (s) on the reverse side.

Exhibit G being Goldwyn Distributing Corporation 1920-1921 Contract, Paragraphs (g), (1), (n) and (o) on the reverse side.

Exhibit H, being Goldwyn Distributing Corporation 1921-1922 Contract, Paragraph Fourth on the front of the exhibit; and paragraphs (g), (l) and (o) on the reverse side.

Exhibit I, being Jewel Productions Agreement for 1922-1923, Paragraph 3 on the front of the exhibit; and Paragraphs 1, 7, 10, 12, 13, 14, and 17 on the reverse side, together with the heading "Additional Terms and Conditions".

Exhibit J, being Metro Pictures Corporation 1921-1922 and 1922-1923 Rental Agreement, Paragraphs Second,

Fourth, Seventh, Thirteenth, Fourteenth, Fifteen and Sixteenth.

Exhibit L, being Pathe Exchange, Inc., Short Subject License Contract, Paragraphs 2 and 7 on the front of the exhibit; and paragraphs 4, 6, 7 and 12 on the reverse side.

Exhibit M, being Selznick Pictures Corporation Star Series Contract—Season 1921-1922, paragraphs Second, Fourth, Fifth, Sixth, Ninth, Tenth, Eleventh and Fourteenth.

[fol. 3560] Exhibit N, being United Artists Corporation Application and Contract—1922.

Exhibit P, being Universal Film Exchanges, Inc., Contract for Short Subjects, 1921-1922.

Exhibit Q, being Universal Pictures Star Series Contract, 1921-1922, Paragraphs 1, 3, 4, and 5 on the front of the exhibit, together with the rubber stamped clause superimposed thereon reading as follows:

"The Distributor reserves the right to demand and receive from the Exhibitor additional security to equal the value of the Film, not to exceed $500.00, as protection for their property while in possession of the Exhibitor. In event of failure to furnish such security within seven days after demand, the contract shall, at the option of the Distributor, be deemed terminated and at an end, without further liability on part of Distributor."

and Paragraphs 1, 7, 10, 12 and 13 on the reverse side.

Exhibit S (merely print statement to the effect that this exhibit is the same as Exhibit 1 annexed to the Answer).

Exhibit T (merely print statement to the effect that this exhibit is the same as Exhibit 2 annexed to the Answer).

Exhibit U.

Exhibit V.

Exhibit W.

Exhibit X.

Exhibit Y (merely print a statement to the effect that this exhibit is the same as pages 1 and 2, original pagination, of Exhibit L-1).

[fol. 3561] Exhibit Z (merely print a statement to the effect that this exhibit is the same as page 25, line 21, to page 30, line 36, original pagination, of Exhibit L-1).

Exhibit A-1.
Exhibit B-1.
Exhibit C-1.
Exhibit D-1.
Exhibit E-1.
Exhibit F-1.
Exhibit G-1.
Exhibit H-1.
Exhibit I-1.
Exhibit J-1.
Exhibit K-1.

Exhibit L-1, Pages 1-4 inclusive; Pages 5 and 6, material under Rule 17; Page 6, material under Rules 18 and 19; Page 11, material under "Agreed statement of policy proposed by producer distributor groups and accepted by exhibitors", subdivisions 3, 4, 5, 6 and 7; Page 12, material under Group 4, first paragraph, beginning "The voting" and ending "unanimous agreement" and Exhibitors' Resolution No. 8, and the last paragraph on the page, beginning "By reason of the extent" through "Otis B. Johnson, Secretary"; Page 13 through page 31, line 3; Page 33, beginning with italics "Exhibitors' Resolutions No. 3, 3-a, etc."; Page 34; Page 35, down through and including "Exhibitors' Resolution No. 4"; Page 37, commencing with italics "Exhibitors' Resolution No. 6"; Pages 38-40, inclusive; Page [fol. 3562] 41, omitting material under "Distributors' Resolution No. 6"; Page 42, omitting material under Distributors' Resolutions Nos. 10, 16, and 16-A; Page 43, commencing with material under Distributors' Resolution No. 18; Page 44, omitting "Producers' Resolution No. 1" and the last four lines on the page; Page 50, commencing with the recapitulation of resolutions; Page 51.

Exhibit M-1.
Exhibit N-1.
Exhibit O-1.
Exhibit P-1.
Exhibit Q-1.
Exhibit R-1.
Exhibit S-1.

The following Exhibits of the United States of America:

Exhibit 9, being material from the files of the Charlotte Film Board of Trade, Pages 5-14, inclusive.

Exhibit 10, being material fro mthe files of the Dallas Film Board of Trade.

Exhibit 11, being material from the files of the Detroit Film Board of Trade, Inc., Pages 1-9, inclusive; Page 11; Pages 13-15, inclusive; Pages 16-39, inclusive; Pages 42-45, inclusive; Pages 47-51, inclusive.

Exhibit 12, being material from the files of the Omaha Film Board of Trade, Inc., Pages 1-12, inclusive; Pages 15-17, inclusive; Pages 41-43, inclusive; Pages 57-58, inclusive; Pages 60-64, inclusive; Page 72; Page 85; Pages 88-110, inclusive.

[fol. 3563] Exhibit 13, being material from the files of the Inter-Mountain Film Board of Trade of Salt Lake City, Pages 1-6, inclusive; Page 14; Pages 54-55, inclusive.

Exhibit 14, being material from the files of the Northwest Film Board of Trade, Inc.

Exhibit 15, being material from the files of the Buffalo Film Board of Trade.

Exhibit 16, being material from the files of the Milwaukee Film Board of Trade.

Exhibit 17, being material from the files of the Kansas City Film Board of Trade, Pages 35-61, inclusive.

Exhibit 19, being material from the files of the Pittsburgh Film Board of Trade, Pages 10-28, inclusive.

Exhibit 20, being material from the files of the New Orleans Film Board of Trade.

Exhibit 22, being material from the files of the St. Louis Film Board of Trade, Pages 1-6, inclusive; Pages 10-11, inclusive; Pages 14-15, inclusive; Pages 18-30, inclusive; Pages 42-45, inclusive; Pages 62-85, inclusive.

Exhibit 23, being material from the files of the Cleveland Film Board of Trade, Pages 1-23, inclusive; Pages 42-53, inclusive.

Exhibit 24, being material from the files of the Montana Film Board of Trade, Page- 11-16, inclusive; Pages 34-35, inclusive; Pages 40-52, inclusive; Page 67.

Exhibit 25, being material from the files of the Memphis-Little Rock Film Board of Trade, Pages 2-27, inclusive; Page 65.

[fol. 3564] Exhibit 26, being material from the files of the Washington Film Board of Trade, Pages 12-13, inclusive;

Pages 16-17, inclusive; Pages 25-27, inclusive; Pages 29-52, inclusive.

Exhibit 28, being material from the files of the New Haven Film Board of Trade.

Exhibit 30, being material from the files of the Philadelphia Film Board of Trade.

Exhibit 31, being material from files of the New England Film Board of Trade.

Exhibit 32, being material from the files of the New York Film Board of Trade.

Exhibit 33, being material from the files of the San Francisco Film Exchange Board of Trade.

Exhibit 34, being material from the files of the Des Moines Film Board of Trade.

Exhibit 36, being material from the files of the Home Office of the Film Boards of Trade and the offices of the Film Boards of Trade.

Exhibit 36-A, being material from the files of the Home Office of the Film Boards of Trade and the offices of the Film Boards of Trade.

Exhibit 36-B, being material from the files of the Home Office of the Film Boards of Trade and the offices of the Film Boards of Trade.

Exhibit 36-C, being material from the files of the Home Office of the Film Boards of Trade and the offices of the Film Boards of Trade, Pages 1-36, inclusive; Pages 42-61a, inclusive.

[fol. 3565] Exhibit 36-D, being material from the files of the Home Office of the Film Boards of Trade and the offices of the Film Boards of Trade.

Exhibit 37, Pages 7-77, inclusive.

Exhibit 38.

Exhibit 39, Page 313, commencing 9 lines from the bottom with "Mr. Woodhull"; Pages 314-334, inclusive; Page 361, statement of Mr. Woodhull, beginning with 9th line and going through 14th line; Page 395, last two lines, commencing "Mr. Desburg"; Page 396, also certificate of Federal Trade Commission on front.

Exhibit 40.

Exhibit 41.

Exhibit 42.

Exhibit 43.

Exhibit 44.
Exhibit 45.
Exhibit 46.
Exhibit 47.
Exhibit 48.
Exhibit 49.

The foregoing designation is made without prejudice to the right of the appellants to refer, in brief or upon argument, to any of the original exhibits which have been transmitted to the Clerk of this Court by the Clerk of the United States District Court for the Southern District of New York.

Respectfully submitted,

Henry W. Taft, Solicitor for Appellants, 40 Wall Street, New York, N. Y.

To Charles Elmore Cropley, Esq., Clerk of the Supreme Court of the United States; Charles H. Tuttle, Esq., Solicitor for Appellee.

[fol. 3566] Copy received April 30, 1930.

Wm. D. Mitchell, Atty. Gen.

[fol. 3567] [File endorsement omitted.]

[fol. 3568] IN SUPREME COURT OF THE UNITED STATES

WAIVER—Filed May 9, 1930

Comes now the United States of America, appellee in the above-entitled cause, and states that the parts of the record in this cause as filed in this Court which need to be printed by the Clerk of this Court for the hearing of this cause, are designated in the statement heretofore filed by the appellants herein under and in accordance with the provisions of Paragraph 9 of Rule 13 of this Court, and the appellee hereby waives the right given it under and in accordance with the provisions of said paragraph of said rule to designate additional parts of the record which it thinks material.

The foregoing designation and waiver is made without prejudice to the right of the appellee to refer in briefs or upon argument to any of the original exhibits which have been transmitted to the Clerk of this Court by the Clerk of the United States District Court for the Southern District of New York.

William D. Mitchell, Attorney General. C. Stanley Thompson, Special Assistant to the Attorney General.

To Charles Elmore Cropley, Esq., Clerk of the Supreme Court of the United States; Henry W. Taft, Solicitor for Appellants, 40 Wall St., New York, N. Y.

[fol. 3569] Copy Received May 8, 1930.

Henry W. Taft.

[fol. 3570] [File endorsement omitted.]

Endorsed on cover: File No. 34,951. S. New York, D. C., U. S. Term No. 83. Paramount Famous Lasky Corporation, Metro-Goldwyn-Mayer Distributing Corporation, First National Pictures, Inc., et al., appellants, vs. The United States of America. Filed April 16, 1930. File No. 34,951.